

**SUPREME COURT OF THE UNITED STATES**

**October Term 1915**

**No. 153**

**THE UNITED STATES OF AMERICA, APPELLANT,**

**VS.**

**HAMBURG-AMERICANISCHE PACKETFAHRT AGTIEN-  
GESSELLSCHAFT ET AL.**

**Filed November 12, 1914**

**File No. 24528.**

**Term No. 382**

**HAMBURG-AMERICANISCHE PACKETFAHRT AGTIEN-  
GESSELLSCHAFT ET AL. APPELLANTS**

**VS.**

**THE UNITED STATES OF AMERICA ET AL.**

**Filed January 5, 1915**

**APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR  
THE SOUTHERN DISTRICT OF NEW YORK.**

**VOLUME 12.**

**FETTERMAN'S TESTIMONY.**

**Pages 541-545**

**(24446 and 24528)**





**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE SOUTHERN DISTRICT OF NEW YORK.**

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UNITED STATES OF AMERICA, PETITIONER,

against

HAMBURG-AMERIKANISCHE PACKET-  
FAHRT-ACTIEN-GESELLSCHAFT,  
AND OTHERS, DEFENDANTS.

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TESTIMONY.  
VOLUME II.



*Edward O. Thomas*

1921

Mr. Burlingham: I have not any original ones. I have only got the produced papers.

Mr. Dorr: We will consider your subpoena amended in that same way then.

Mr. Burlingham: Yes.

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EDWARD O. THOMAS, sworn on behalf of the petitioner, testified as follows:

*Direct-examination by Mr. Dorr:*

1922

Q. Mr. Thomas, what is your business? A. Steamship.

Q. How long have you been in the steamship business? A. About sixteen or seventeen years.

Q. What lines have you been with during that time? A. I have been with the Barber Steamship Company, the Vogeman Line and the Gans Line the same, or they were at the time, I believe, the Hamburg-Amerika Line and the Johnson Line.

Q. Have you been with any other lines during that period? A. I don't think so; no, sir; that I can recollect.

Q. How about the New York and Continental? A. Oh, certainly.

1923

Q. Those are the lines you are with now? A. New York-Continental, North West Transport Line and the Uranium Line.

Q. Did you go from the Hamburg-American Line to the New York and Continental? A. No, I went from there to the Johnson Line.

Q. What line had you been in prior to your service with the New York and Continental? A. The first company—no, I made a mistake. The first company I started was Furness, Withe & Company and from there to the Barber Steamship; no to Peter Wright

1924

*Edward O. Thomas*

& Company. I was only there a few weeks and then to the Barber Line, and then to the Vogeman Line, the Hamburg-American Line, the Johnson Line, the New York and Continental Line, the North West Transport Line, and Uranium Line.

Q. What has your position been with the last three lines you have mentioned? A. At first I was the assistant manager of the New York and Continental Lines and since then I have been manager.

Q. When did you go with the New York and Continental Line? A. January 1st, 1907, I think.

1925

Q. At that time what were the ships of the New York Continental Line? A. They had a great many of them; I couldn't recall them. I have a memorandum.

Q. What was the service in which those steamers engaged in at times? A. I have a memorandum of the steamers, if you want it.

Q. Have you it with you? A. Yes.

Q. Well, you may consult your memorandum? A. They had altogether, if this memorandum is correct, twenty-nine steamers; not twenty-nine steamers, they made twenty-nine voyages, seventeen steamers.

By Mr. Bullowa:

1926

Q. You don't mean, Mr. Thomas, that they owned seventeen? A. No, they operated.

Mr. Dorr: I suggest, Mr. Bullowa, you reserve your cross-examination?

Mr. Bullowa: He said they had; I didn't know whether he meant ownership or not.

The Witness: They owned steamers.

By Mr. Dorr:

Q. These steamers, at that time were chartered?

A. Yes, sir.

*Edward O. Thomas*

1927

Q. And in what service did these seventeen steamers engage? A. They started in the Rotterdam-Hamburg trade, between New York and I think they kept that trade up. Later on we stopped the Hamburg trade and only continued the Rotterdam; just what line it was I don't recall.

Q. Do you recall whether they were engaged in passenger business or freight service at the time which your testimony now relates to? A. I believe they were engaged principally in the freight business. I believe the last few steamers did carry passengers.

Q. Were they the same steamers that had been engaged exclusively in the freight business? A. No.

1928

Q. That is towards the end of its existence, they obtained steamers which were adapted to passenger business as well as freight business? A. Yes.

Q. Was there an interim as far as you can recollect, between the exclusively freight business and the freight and the passenger business? A. Was there what?

Q. Was there a period in there during which the line didn't run any steamers at all? A. Yes.

Q. That was prior to the establishment of the passenger business? A. I think so.

Q. While this line was engaged in the freight business exclusively, do you recall whether or not there was a line of steamers known as the New Hamburg Line? A. I do.

1929

Q. What was the New Hamburg Line? A. I don't think anybody ever knew here in New York.

Q. Tell us about the New Hamburg Line, what you were able to discover about it, Mr. Thomas? A. As I say I don't know anything about the New Hamburg Line, except that it was a very strong competitor I believe of the New York and Continental Line.

Q. Did it come into being immediately or shortly



*Edward O. Thomas*

1930

after the New York and Continental steamers were put on? A. Not very long after the New York and Continental Line started.

Q. How long did it last after the New York and Continental freight steamers went out of business?

A. It didn't last at all; I don't think they had a sailing; their sailings were discontinued immediately.

Q. Do you recollect who the agents for the New Hamburg Line were? A. Phelps Brothers.

Q. Were Phelps Brothers agents for certain Conference Lines? A. I think so.

1931

Q. Now tell us about your competition with the New Hamburg Line? A. Well, whatever we were in the market for freight, they regularly underbid us.

Mr. Spooner: This is objected to.

Mr. Beers: This proceeding has nothing to do with freight carrying.

Mr. Spooner: I move to strike out the answer.

Mr. Burlingham: We don't know who "they" is.

Mr. Dorr: "They" I take it to be the New Hamburg Line. Of course, as yet I have not connected the New Hamburg Line with the defendant. If I fail to do so, of course, the evidence is immaterial.

1932

Mr. Beers: Do you claim the New Hamburg Line was in the passenger carrying business?

Mr. Dorr: I don't know one way or the other about that.

Mr. Beers: Why encumber the record with matters that cannot be material in this proceeding?

Mr. Dorr: It seems to me that the entire efforts of the Conference Lines to put other lines out of business, whether those lines were

*Edward O. Thomas*

1933

freight or passenger, is relevant on the question of the intent of the parties to the agreement, which is the basis of the bill.

Mr. Spooner: We object to it as not within the issues.

Mr. Dorr: Here is a line which starts in as a freight line, and we will try to show that efforts were immediately made to put it out of that business; then it was transferred to the passenger business and the same tactics were pursued in the same way.

Mr. Spooner: Nobody here can decide the question; I merely say that it is not within the issues.

1934

Q. Proceed, Mr. Thomas, and finish the answer that you were giving? A. Well, whenever we were in the market for freight, it was a regular thing for this line to underbid us and bring the rates down so low that it would make it almost an impossible proposition to operate steamers against them, and it was generally understood—

Mr. Spooner: Tell what you know.

The Witness: I don't know anything about the line; nobody else knew anything about it.

Mr. Spooner: Then I would not tell anything.

The Witness: That is what I started out with.

Q. Did you endeavor to ascertain? A. I did.

Q. What was the best information you could get?

A. My information was that the line was operated by the Hamburg-American Line.

1935

Mr. Spooner: I move to strike out the answer as hearsay—the witness has said he didn't know anything about it.

Q. Do you know what became of the contracts for freight which the New Hamburg Line had, when the

*Edward O. Thomas*

1936

New Hamburg Line retired from business? A. I know by what I was told.

Mr. Bullowa: By whom?

Q. What was the source of your knowledge? A. The freight brokers.

Q. Do you recall the particular names of the freight brokers who told you that? A. I couldn't swear to that.

Q. Well, what was the information that you got from the freight brokers that you cannot recall the particular names of?

1937

Mr. Spooner: I object to it as hearsay and he cannot designate or indicate the source of his information. On the further ground that it is incompetent, not being within the issues made by the pleadings.

Q. These freight brokers of whom you speak, were the freight brokers dealing in freight in Trans-Atlantic Lines at that time? A. They were.

Mr. Spooner: I object to the question as leading.

1938 Q. Do you recall whether or not they at times acted for the Hamburg-American Line? A. They did.

Mr. Spooner: Objected to as leading.

Q. Now, what did you learn? A. Well, as I have stated, I might have been told by half a dozen brokers, or more or less; really I cannot recall which of the various brokers; there are a great many of them may have told me that, but I do not know; from what they told me all of these contracts were transferred over to the Hamburg-American Line, at the same rates which were probably fifty per cent or seventy-five per

cent or a long way from the Hamburg-American Line, without any additional rate being charged. I know one contract that was transferred, the Standard Oil contract.

Mr. Spooner: Does not even show a combination of a single line that competes with another line.

Mr. Dorr: We have not begun.

Mr. Spooner: Then you have not laid the foundation for this testimony in this case.

Q. Did the New York and Continental Line resume business, Mr. Thomas?

1940

Mr. Spooner: I move to strike out this evidence, on the ground that it is hearsay, that the witness has been asked leading questions; that it is outside of the issues made by the pleadings and is incompetent and irrelevant.

Q. Now as to my last question, Mr. Thomas, did the New York and Continental resume business? A. They did; they stopped a while; how do you mean, did they resume business?

Q. As I understand it, it was originally merely a freight line? A. Yes.

Q. And that when it found the freight business impossible and suspended it, that is the freight line?

1941

Mr. Spooner: I object to the question as assuming facts of which there is no evidence.

A. Yes.

Q. What were the reasons for the discontinuance of the freight business, Mr. Thomas? A. Well, that would only be assumption. They lost a great deal of money. I can only assume; they never gave me the reasons.

*Edward O. Thomas*

1942

Q. Thereafter did they institute a freight and passenger business? A. They did.

Q. What ships were engaged in that business? A. Freight and passenger?

Q. Freight and passenger, you may refresh your recollection from your memorandum? A. I am looking at my memorandum now. The Volturno, the Avoca, the Jelunga; I am not certain.

Q. Do you recall what the tonnage of the Volturno was? A. Gross is 3,581.

Q. Is it a twin screw ship or a single? A. Twin.

1943

Q. Do you recall what its accommodations were for steerage passengers? A. One thousand fifty-four.

Q. Has it accommodations for second cabin and first cabin passengers? A. It has some accommodation for second and some for first.

Q. Now the Avoca was the name of that steamer subsequently changed? A. Yes, I think she was the Uranium, or the Uranium was the Avoca.

Q. What was the tonnage of the Uranium, or what is the tonnage of the Uranium? A. Five thousand one hundred and eighty-three gross.

Mr. Burlingham: Give the net at the same time.

1944

The Witness: Three thousand three hundred and nineteen.

Q. What is the gross tonnage of the Volturno? A. Three thousand five hundred and eighty-one.

Mr. Bullock: What is the net?

The Witness: Two thousand two hundred and eight.

Q. How many screws did the Uranium have? A. One.

Q. Single screw? A. Yes.

Q. What is the steerage capacity? A. Of the Uranium, 1167.

Q. Did it have accommodations for second cabin?



*Edward O. Thomas*

1945

A. Yes.

Q. And first cabin? A. Yes.

Q. What is the time of the trip between Rotterdam and New York, on the *Volturmo*? A. Via Halifax as they are coming now?

Q. Yes. A. Well, from twelve to fourteen days, in ordinary weather.

Q. What is it direct? A. It would be about a day or a day and a half less.

Q. What is the time of the *Uranium*? A. The *Uranium* is a day better.

Q. What was the third steamer which you sent to New York and the Continental Line ran in the passenger business? A. *Jelunga*.

1946

Q. What is the tonnage of that steamer? A. Well, that is the same as the *Uranium*.

Q. Sister ship, was she? A. Sister ship.

Q. Is that boat now in the service of the *Uranium* Line? A. No, sir.

Q. What became of that boat, do you know? A. I don't know.

Q. Now, how long did the New York and Continental maintain the freight and passenger service?

A. They ran, I think, seven trips.

Q. For all three boats? A. No, altogether.

Q. During the time that the New York and Continental Line was running these steamers in the passenger business, do you recall whether or not there were steamers of the Conference Lines which sailed on the same sailing date, at a rate reduced from the regular rate of those steamers of the Conference Lines? A. I don't recollect when that opposition started.

1947

Q. Did you have charge of the passenger business at that time? A. No, sir; I had really nothing to do with it.

*Edward O. Thomas*

1948

Q. Your duties were confined entirely to the freight? A. To freight and management of the ships.

Q. What was the date when the New York and Continental suspended this passenger and freight service? A. I think the last steamer sailed on August 22nd, 1908.

Q. Thereafter did you enter the employ of the Northwest Transport Company? A. I did.

Q. When was that? A. They started operating steamers February 27th, 1909.

1949 Q. And what steamers did the Northwest Transport Company operate? A. The Volturmo, Raglan Castle, Uranium, Napolitan Prince, Sicilian Prince and Campania.

Q. Was the name of the Campania subsequently changed? A. Yes, changed to the Campanello.

Q. What is the tonnage of the Raglan Castle? A. I don't remember.

Q. That is not in the service of the Uranium Line? A. No.

Q. Do you recall its steerage capacity? A. I do not; I think it was about 800.

Q. Now the Napolitan Prince? A. Did you say Raglan Castle?

1950 Q. Yes. A. I don't think she carried passengers, did she? Yes, she did too. I may be mistaken about her capacity, I was thinking of the "Princes."

Q. You don't recall the capacity of the Raglan Castle? A. No.

Q. Now the Napolitan Prince, what was her tonnage and steerage capacity? A. I don't recall it.

Q. Approximately? A. Not near enough.

Q. About the Sicilian Prince? A. Same answer; I don't recall it.

Q. Are the last two boats now in the service of the Uranium? A. The "Prince" boats?

Edward O. Thomas

1951

Q. Yes. A. No.

Q. How long did the Northwest Transport Line continue in business? A. February 27th, 1909, to May 7th, 1910.

Q. And what occurred then? A. Then the line discontinued altogether.

Q. And whose employ did you enter then? A. The Uranium Steamship Company.

Q. Immediately thereafter? A. Yes.

Q. What ships did the Uranium Steamship Company have? A. The Volturmo, Campania and Uranium.

Q. Has it added any ships? A. No, sir.

1952

Q. Mr. Thomas, is it part of your duty as general manager of the line in the United States, to ascertain the expense at which your ships are carrying steerage passengers? A. No, sir.

Q. Does your line keep records as to the expense of transporting the steerage passengers? A. We know what it costs to carry them.

Q. What records do you keep which show the cost of carrying? A. We don't keep any records.

Q. Do you keep records which show the expenditures, which have been made on the different voyages, on the different ships? A. That is all done in London.

1953

Q. Certain of those expenditures are made in New York, are they not? A. Yes, sir.

Q. And that information is transmitted from New York to London? A. All of the vouchers are sent to London, including the expenses at New York.

Q. Now, Mr. Thomas, what from your experience have you found to be the cost of carrying steerage passengers on the ships of your line, where there were, we will say, 500 passengers on a sailing, *per capita*? A. I should say about £2, less than £2 10.

Q. That would be about \$12? A. Around about \$12.

1954

*Edward O. Thomas*

Q. Now, what element does that cost of \$12 include? A. Includes everything; it is put up to the ship for carrying those passengers.

Q. Now, from your experience can you say whether or not cost *per capita* of the carrying of a steerage passenger decreases with the number carried? A. It does slightly.

Q. Assume that there were 1,000 passengers to a sailing, what from your experience have you found to be the cost? A. About £2 6; that would be about the average for a good round lot of passengers, from 500 up.

1955

Q. Between what points is that carried, Mr. Thomas, between New York and Rotterdam? A. Yes, sir.

Q. Is that eastbound carriage? A. Both ways.

Q. Do you find that there is a material difference in the cost between the two, east and westbound? A. Of course, is it cheaper to carry passengers westbound than it is eastbound? No, I shouldn't say it is. The provisions over there are almost as high as they are here; in the meat bill and the flour bill there is really no difference; the only thing to consider some of the provisions are cheaper over there, but them we generally provision for the round voyage, with the exception of perishable goods.

1956

Q. Mr. Thomas, what has been your experience with the transportation of passengers booked by your line from Rotterdam to New York, where they were traveling from Russia to Rotterdam, to embark to the control stations, German and Austrian frontier? A. Similar to the testimony that I have heard Mr. Fourman give here.

Q. State in detail, Mr. Thomas, what your experience has been in regard to interference with your passengers by the control stations?

Mr. Spooner: I object to the question as assuming facts not proven, as characterizing what takes place at the control stations and as hearsay.

A. Mr. Fourman is passenger agent of the line, but in my connection with the line of course, I have seen a number of tickets come in and returned. Mr. Fourman has shown me a number of the letters, stating reasons why these tickets were returned.

Q. Has it been an important matter to the line?

A. It has been a very important matter to the line.

Q. As such I suppose it has received your attention as general manager? A. It would; it would come to my notice, but not my attention, Mr. Fourman dealt with that.

1958

Q. Now, have you taken it up with your home office? A. Mr. Fourman has right along.

Q. Do you know whether or not your line has made efforts to procure the cessation of this interference?

A. Always have heard so.

Q. Have you succeeded? A. I don't think so.

Q. Do you know Captain Tinsley? A. I do.

Q. Has he ever been in the employ of your line?

A. Has he?

Q. Yes. A. He is now.

Q. Do you recall any difficulty that Captain Tinsley had while he was in your employ?

1959

Mr. Burlingham: Objected to as immaterial and irrelevant and as vague and indefinite.

Mr. Spooner: Hearsay. Captain Tinsley would be the best witness on that subject.

Mr. Dorr: The witness may know something about it.

Mr. Spooner: It is leading and assuming Captain Tinsley had trouble; a general objection.



*Edward O. Thomas*

1960

Mr. Dorr: I distinctly refrained from leading; I haven't asked him what the difficulties were.

Mr. Bullowa: I know, but you suggested that he did have some difficulties.

Q. Directing your attention to the question of whether or not Captain Tinsley ever did have any difficulty, do you know? A. I know he did.

Mr. Burlingham: Difficulties with what, marital difficulties?

1961 The Witness: Difficulties with the Dutch Government.

Q. Will you state what you know about that matter, Mr. Thomas?

Mr. Bullowa: What the Dutch Government did, is that the question, Mr. Dorr?

Q. Did you understand the question, Mr. Thomas?  
A. Why the trouble—

Q. Tell us what you as manager of the line here had to do with this matter?

By Mr. Spooner:

Q. Have you personal knowledge? A. I have.

1962 Q. With the Dutch Government? A. So far as cables and letters go, that is all I have.

Q. Did you participate in it yourself, or is it hearsay? A. I participated in it in this way. Mr. Tinsley had to leave the country and I had to communicate in other parts with him, because he was not allowed to stay in Rotterdam.

Q. By whom was he prevented? A. By the Dutch Government.

Mr. Bullowa: Do I understand Mr. Dorr, you mean to connect these defendants with the Dutch Government, because if that is so, can-

*Edward O. Thomas*

1963

not I call your attention to the American Banana case?

By Mr. Dorr:

Q. Now, Mr. Thomas, what did you do in this regard? A. I had really very little to do with it; it affected us very little here. Mr. Tinsley went to Antwerp.

Q. Is Mr. Tinsley still in your service? A. Yes.

Q. When will he be in port? A. He is marine superintendent and manager in Rotterdam.

Q. And does not come to this port? A. No, sir.

Q. Was this matter, this difficulty which Captain Tinsley had in connection with the transportation of steerage passengers on your line?

1964

Mr. Burlingham: I object to it as leading and upon the further ground it has been shown the witness has no knowledge on the subject.

A. It was.

Q. And what was the incident in regard to the transportation of these steerage passengers on your line?

Mr. Spooner: That is objected to as incompetent, the witness having already testified that he had no personal knowledge of it, as hearsay and irrelevant.

1965

A. The incident was that our passengers were not allowed to land in Rotterdam and had to land some place. Could not keep them on the ship and they were put on the ship and told they could not land and Mr. Tinsley was rather arbitrary, from the standpoint of the Dutch Government and he landed these passengers without the authority of the Dutch Government and they possibly and justly extradited him, keeping him away for all time. He was a very popular

*Edward O. Thomas*

1966

man in Rotterdam and this was an order of the Queen, the Queen signed the order, herself, so I was told.

Mr. Dorr: I will consent that that be stricken out.

Mr. Spooner: Just as competent as the rest of it.

Mr. Burlingham: You mean expelled, not extradited?

Q. Mr. Thomas, what was the difficulty as to the landing of these passengers; that is the only part of it which I regard as competent?

1967

Mr. Spooner: I object to it as immaterial and incompetent.

A. Well I couldn't give all the facts in the case.

Mr. Spooner: You can't give any of them, can you, except hearsay?

Mr. Dorr: Well, I will consent, if you gentlemen desire, to have all this matter stricken out.

Mr. Burlingham: Everything about Tinsley?

Mr. Dorr: Yes.

1968

Mr. Spooner: We don't object to its remaining in.

Mr. Dorr: Then I will pursue it. Do you desire to have it stand?

Mr. Spooner: I would rather it be in as far as I am concerned.

Mr. Dorr: Well, then I will pursue it a little further.

Mr. Bullowa: I move to strike it out.

Mr. Dorr: I consent that it be stricken out.

Mr. Spooner: I object to its being stricken out.

*Edward O. Thomas*

1969

Mr. Dorr: I will consent that it be stricken out.

Mr. Burlingham: I object to striking it out.

Mr. Dorr: I think we may as well have the whole story.

Mr. Bullowa: It is consented that it be stricken out.

Mr. Dorr: I have consented that it be stricken out as to you, but as to Senator Spooner I will get the whole story.

Q. What were the circumstances about this, Mr. Thomas, as you ascertained them from investigation as general manager of the Uranium Line, Northwest Transport Line in this country.

1970

Mr. Burlingham: Objected to.

Mr. Bullowa: Same objection, and I move to strike out the answer.

A. I am only the general manager of the line in this country.

Q. And you ascertained them as general manager in this country? A. I am not general manager of the line, only being the manager in America, it would not come under my province to make a thorough investigation of a thing like that. What would come to me would come to me simply from my own knowledge. I received a number of cables on it and so forth.

1971

Q. You had correspondence with your office on the other side over this matter? A. I think so.

Q. And what was the difficulty as to the landing?

By Mr. Spooner:

Q. Does the correspondence show what the difficulty was? A. I don't think so.

By Mr. Dorr:

Q. What was the difficulty?

1972

*Edward O. Thomas*

Mr. Spooner: Same objection.

A. The difficulty was the landing passengers against the orders of the Government as I understood it.

Q. What was the occasion of the holding up the passengers and preventing them from landing.

Mr. Burlingham: Objected to as vague, indefinite, and on the grounds of the objection to the former question.

A. I would have to refresh my memory on that to give an intelligent answer.

1973

Q. If you will do that, then, Mr. Thomas, I will not pursue that matter further. What was the destination of the passengers on this steamer, if you recall, Mr. Thomas? A. It must have been various points; I presume in Russia.

Q. Do you recall whether or not these passengers were in the first instance landed in Holland and that they were subsequently returned to Rotterdam from the frontier?

Mr. Beers: Objected to as leading.

A. They were.

1974

Q. Was it before that or after that that this incident as to their landing occurred? A. You mean the second landing from the steamer?

Q. Yes? A. It was after that.

Q. The landing to which the Holland Government objected? A. It was after that.

Q. Do you recall what was done by your line in regard to the transportation of these passengers to their ultimate destination? A. They were finally transported.

Q. Through Germany? A. I don't know whether they went through or went around.

Q. Do you recall what reason was given for the refusal to allow these passengers to proceed at the German frontier?



Mr. Spooner: That is objected to as incompetent, no foundation having been laid for the question, and on the ground that the witness has no knowledge on the subject.

Q. Now, do you recall that shortly thereafter, immediately after this incident that you were about to transport certain steerage passengers whose destination was Russia and that you made certain arrangements for their transportation?

Mr. Burlingham: Objected to as leading.

Mr. Spooner: That is objected to as assuming what the witness has not testified to and also upon the ground that it is leading.

1976

Q. Now, what did you do? A. We made arrangements in Rotterdam to run special trains and we also made arrangements to try to see that all Russian passengers had passports.

Q. Well, now, do you recall whether or not you had any Russians booked for the following sailing of a ship of your line? A. No, sir.

Mr. Bullowa: Do you mean you don't recall?

The Witness: I mean I don't even know what the following sailing was.

Mr. Burlingham: Why not take an adjournment and put Mr. Fourman on the stand again.

1977

Q. Do you recall whether or not at or about that time you made an arrangement for forwarding certain Russian passengers by a ship of the Holland-America Line?

Mr. Spooner: Objected to as leading and immaterial.

A. Yes, sir; we did.

Q. What were the circumstances of that, Mr. Thomas? A. I recall that the passengers were booked.

1978

*Edward O. Thomas*

We refused to put them on the ship because they had no passports and we knew they could only go by the Holland-America Line.

Q. And you did not transport them because they had no passports? A. As I recall it.

Q. What did you do with them in order that they might get to their destination? A. Booked them on the Holland-America Line.

Q. Did they have any difficulty going over the Holland-America Line? A. No, sir.

1979

Mr. Spooner: You ought to make the Dutch Government a party.

Q. The difficulty was not the Dutch Government, was it, Mr. Thomas; the Dutch Government had nothing to do with the passport business? A. No, sir.

Q. The difficulty was with the German frontier, was it not, as in the case of the westbound? A. We run up against the same thing as they did in the westbound.

Recess until 2 P. M.

1980

Afternoon session.

EDWARD O. THOMAS, recalled:

Mr. Dorr: Your witness.

*Cross-examination by Mr. Burlingham:*

Q. You spoke, Mr. Thomas, of the cost *per capita* and you seemed to be in some doubt whether it was cheaper bringing the passengers eastward or bringing the passengers westward; is your mind clear on that now? A. Well I should imagine there is a slightly less cost in bringing them westward, because I know a

good many of the provisions are much cheaper over there than they are here.

Q. Is this statement of yours as to the *per capita* cost based on a careful investigation by yourself personally? A. Based on figures that I have.

Q. Have you done it for the District Attorney, or for your own business? A. I am doing that ever since I have been in the passenger business.

Q. Taking all of the items of cost, you think that *per capita*, carrying 500 steerage passengers, the cost is only two pounds, ten? A. It might be slightly more.

Q. Then you must make a very handsome profit, carrying passengers at \$20 and \$22? A. I mean that is the overhead expenses. I don't mean that that cost—for instance those are the expenses that you would show in the disbursements of the steamer.

Q. That is what you mean by overhead expenses? A. Yes, sir.

Q. Define that? A. For instance the cost of the feeding of the passengers, the cost of the stewards' pay and the feeding of the stewards, the cost of insurance, the cost of painting and the upkeep of the stewards' department and passengers' department, and any repairs necessary in the passenger department.

Q. How about your crew and the navigation of the ship; do you leave that out or charge that to freight? A. We charge that to the steamer, but we have now a passenger department, a freight department and a steamship department.

Q. And you assign—? A. (Interrupting.) We assign to the passenger department everything relating to the passengers, such as stewards, etc., and the other crew is assigned to the steamship department.

Q. Then to test the soundness of your conclusion, it would be necessary to have a very considerable body of data would it not? A. It would.

Q. For instance you estimate the cost of feeding a steerage passenger at so much, I suppose? A. Yes.

1982

1983

*Edward O. Thomas*

1984

Q. You get at that by a careful consideration of all the bills for the year? A. All the bills for a voyage or voyages.

Q. Did you ever carry a thousand passengers? A. Yes.

Q. Very rarely? A. Frequently carried a great deal more.

Q. It does not so appear in these records, does it? For instance 1910, Petitioner's Exhibit 158 for identification.

1985

Mr. Dorr: You are referring now to the figures of the Uranium Line, are you not?

Q. Table 59 gives the number of passengers carried eastbound by the Uranium Line in the year 1910, and the range apparently from 75 passengers to 956, and I see none eastbound carried more than a thousand? A. Does this give the westbound passengers?

Q. West are on the other column there (indicating)? A. When I see these figures, I know we have had a number of ships this year where we have had more than 2000 passengers.

Q. You made your calculations, your investigations with regard to those? A. The cost of carrying them?

Q. Yes? A. The cost of carrying them I based on actual data, actual figures.

1986

Q. Have you those with you? A. No, sir.

Q. As I understood you you charged such expenses of the ship to the ship itself, certain to the passenger department, and certain others to what? A. Freight department.

Q. To get your best results, you want to carry both freight and passengers? A. On such ships as ours we have to do it.

Q. Well, I renew the question I asked you originally, you must have made a very handsome profit, charging \$22 or \$20, if it only cost you two pounds

six per passenger, isn't that so? A. Passengers can be carried on certain classes of ships from \$20 up and make money.

Q. Everything depends on the kind of ship it is?  
A. You could not carry them on the Lusitania.

Q. This matter of expenses based of course upon the character of food you give, character of service, number of days, speed of the vessel? A. Everything is taken into consideration.

Q. These are British ships aren't they? A. Yes, sir.

Q. Subject to British regulations, Board of Trade?  
A. Yes, sir.

1988

Q. Not subject to American regulation? A. Yes, sir.

Q. Except so far as you comply with the Board of Trade regulations, that gives you a standing with the American inspectors? A. It does as a general rule.

Q. That is the way you comply with our laws in common isn't it, by producing a Board of Trade certificate? A. Yes, but that isn't all; they regularly inspect and measure the ships and tell you how many you can carry too if there is a change made at any time.

Q. When did the Uranium Steamship Company pay its last dividend? A. I don't think that they ever did.

1989

Q. How long has that company been in existence?  
A. Since May 21st, 1910, it says here.

Q. What is its capital stock? A. I don't know.

Q. Is it a British corporation? A. It is.

Q. Are you an officer of it? A. No, sir.

Q. Are there any officers in this country? A. I don't think so.

Q. What is the age of these three ships that the Uranium has? A. The Volturno, I think, was built in 1906 and the Uranium was built, I think, in 1891.

Q. 1891? A. I think so; the Campanello was built in 1902 I think.

*Edward O. Thomas*

1990

Q. Then they were not built for you, any of them?  
A. No.

Q. What was the *Volturno* built for? A. The *Volturno* was built originally—I don't know.

Q. What is your information? A. I have heard that she was in the Italian trade at one time, running to Brazil.

Q. Well, it must have been prior to 1906. Are you quite sure of the date of her launching? A. I am not certain.

Q. How about the *Uranium*, who was she built for? A. She was originally built for the British-East India Company running between India and London.

Q. Now the P. & O.? A. British-East India, that is my impression.

Q. Give her history? A. She was originally built to run in that trade, to carry a very high class of passengers. At the time she was built, she was supposed to be one of the finest ships of the day and I have often heard the captain tell passengers how she came to London, how often the builder came down to see her sail; she was supposed then to be such a fine ship.

Q. She was transferred to what lines? A. She was taken out of that trade a great many years ago and  
1992 I don't know what trade she is running in.

Q. Where did you come to get her or the purchaser of your company? A. Got her from the Fairfield people, I believe.

Q. Who are they? A. An English Company, ship-owners and builders.

Q. Well, was there a line of steamers known as the Fairfield Line? A. You never heard of the Fairfield people?

Q. Not as a line, is there one? A. They are very large builders; I don't think they run a line.

Q. Do you think the Northwest Transport bought her from them? A. No, sir; the Uranium Line bought her, is my impression.

Q. When? A. I don't know; I imagine about the time or before the Uranium Line started operating.

Q. Have you any memorandum to refresh your recollection? A. No, sir.

Q. Now, the Jelunga, you have her how long? A. I don't know how she was running. I can tell you the number of voyages she made. She made three trips I believe.

Q. And then was she sold? A. She was not owned by the—

1994

Q. She was a chartered boat? A. She was a chartered boat.

Q. Now, the Campanello was originally the Campana, you say? A. Yes, sir.

Q. She was built you say in 1902? A. Yes, sir.

Q. And of what line was she originally? A. She ran for a long time in the Phoenix Line.

Q. Where did that run to? A. Antwerp.

Mr. Bullowa: Not as a passenger boat.

Q. Freight boat? A. Freight boat.

Q. Then you acquired her when? A. I don't know when we bought her. I imagine about the time the Uranium Line was formed. I don't know whether they bought her when she was running for the Northwest Transport Line or not.

1995

Q. And you were the general manager in America of the Northwest Transport Line? A. Yes, sir.

Q. You never had more than three boats in that line? A. The Uranium?

Q. Yes? A. No.

Q. In the Northwest Transport Line you had five? A. Six, including two principals.

Q. You have not built any other boats, have you? A. No.



*Edward O. Thomas*

1996

Q. None contemplated? A. I don't know.

Q. You have no responsibility for these circulars that were sent out, declaring that new boats were being constructed, did you? A. No, sir.

Q. You have testified to a great many things this morning with regard to the passenger service, but isn't Mr. Fourman the passenger agent of this country?

A. Yes, sir.

Q. General passenger agent? A. Yes, sir.

Q. You do not interfere with him do you, except in crises? A. I am the manager of the line.

1997 Q. Do you have anything to do with getting out the circulars? A. Very little.

Q. Do you have anything to do with dealing with disgruntled passengers? A. Sometimes.

Mr. Dorr: I object to that.

Q. You listen to complaints by passengers? A. Sometimes, Mr. Fourman might consult with me, take it up with me.

Q. Have you ever visited control stations? A. No, sir.

Q. Have you ever been on the frontiers of Germany and Russia? A. No, sir.

Q. You have been in Europe? A. Yes, sir.

1998 Q. You have never investigated this yourself, have you? A. No, sir.

Q. You have a home office in London, have you? A. Yes, sir.

Q. Is it an active real thing, do they control the business or do you? A. I can't say, I am sure I don't—

Q. (Interrupting.) My question was whether the tail wagged the dog or otherwise?

Mr. Spooner: What do you mean by otherwise?

Q. I mean what I say? A. You asked me if I control the business or the London controlled it?

Q. Yes? A. I certainly do not.

Q. Your relation is that of agent in the United States for them? A. Yes, sir.

Q. And you take orders from them? A. Yes, sir.

Q. You fix rates or do they? A. I do.

Q. Without consultation? A. Yes, sir.

Q. And send out these circulars, reducing rates from time to time? A. Are you referring strictly to passenger rates?

Q. Yes? A. They never interfere with us.

Q. You can do what you please? A. Practically; they leave the management of the business in this country entirely in our hands.

Q. And you raise or lower the rates, according to the competition you have to meet, is that it? A. I think so.

Q. You want to get as much as you can and give away as little as possible, is that it? A. We want our fair share of the business.

Q. You have been doing pretty well, haven't you? A. We have.

Q. Increasing all the time? A. I think the records show that we have.

Q. Notwithstanding the existence of the Conference agreement, known as the District Attorney's AA?

A. Well, of course they have taken away a very large portion of our profits.

Q. And you retaliate by taking away as much of theirs as possible? A. We retaliate by trying to get as much of the business as we can, in a good legitimate way.

Q. It is perfectly legitimate, is it? A. With the way we do it, it is.

2000

2001

*Edward O. Thomas*

2002

*CROSS-EXAMINATION by Mr. Bullock:*

Q. Did you ever try to become a member of the Conference? A. No, sir.

Q. Never made application? A. No, sir.

Q. Did the Northwest Transport Line? A. No, sir.

Q. Who were the parties interested in the New York and Continental Line? A. Who the parties are?

Q. Yes? A. I don't know.

2003 Q. Well, who did you get your orders from? A. From London.

Q. From whom in London? A. The Northwest Transport Line and the Uranium Line.

Q. Who were the parties that you dealt with? A. I don't know.

Q. Your letters came unsigned? A. Came signed by Northwest Transport Company.

Q. No initials? A. They were signed by different men there.

Q. As I understand the Northwest Transport and the New York and Continental Lines were simply some company in London. Now, did you ever go abroad and see the management abroad? A. Yes, sir.

2004

Q. Whom did you see? A. I saw a man named Harding.

Q. Is he the manager there? A. I understand so.

Q. And the New York & Continental Line, is that a British corporation or a New York corporation? A. Why, the New York & Continental Line was a New Jersey corporation.

Q. Who were the officers? A. Why, a man named Peterson was president.

Q. What is his full name? A. William.

Q. Was he an American or Englishman? A. Why, he was a Dane I believe, a naturalized Englishman.

*Edward O. Thomas*

2005

Q. Was he the only officer of the company? A. No, there was a secretary and treasurer.

Q. Who was he? A. The secretary and treasurer of the first one was a man named Huntington.

Q. His other name? A. I don't know what his other name was.

Q. What was the capitalization of the New York & Continental? A. I don't remember.

Q. Did they own any steamers? A. I don't think so.

Q. Chartered steamers? A. Yes, sir.

Q. Did McKenzie & Mann have anything to do with the New York & Continental Line? A. I don't know. 2006

Q. Did you ever hear of those people? A. Very often.

Q. In what connection? A. I have heard of them in many connections.

Q. Well any connection with the New York & Continental Line? A. I have never had any dealings with them, never even seen them, except I saw Mr. McKenzie once I think at lunch.

Q. At a meeting? A. No, I say I met him once at lunch.

Q. What was the Northwest Transport Line, was that a New Jersey corporation or an English corporation? A. I think an English corporation. 2007

Q. Who were the officers of that corporation? A. Peterson I think was president of it; I am not certain.

Q. You are not certain? A. No.

Q. Who were the other officers? A. I don't know any of the other officers.

Q. Peterson's home address was London? A. Yes.

Q. Do you know the capitalization of the Northwest Transport Company? A. No, sir.

*Edward O. Thomas*

2008

Q. Do you know whether they owned any steamers or not? A. I don't know whether they did own any; I imagine they did not.

Q. Now, the Uranium Line, is that an English corporation? A. Yes.

Q. Who are the officers? A. I only know the manager.

Q. Is Mr. Peterson connected with it? A. No, sir.

Q. What is its capitalization? A. I don't know.

2009 Q. They only man you know—? A. I say I don't know. For instance I had all that data, naturally being the New York manager, I must certainly have filed it with the secretary of state. It has been through my hands but I don't recall it now. All that information is filed with the Secretary of State.

Q. Now these freight brokers that you spoke about, that gave you this information about the Hamburg Line taking over certain contracts, they were freight brokers for you too, they acted for everybody? A. For everybody.

Q. There was no conference among the freight brokers was there? A. Not so far as I know. There is a freight brokers' association; I don't know what it amounts to.

2010 Q. There is a freight brokers' association? A. I think so.

Q. You deal with those brokers that are members of the association? A. I don't know what the association is. I have often heard the term but I don't know anything about it.

Q. Now, during the early part of 1908, you had competition with the Russian East Asiatic Steamship Company too, did you not? A. Not direct, freight or freight and passengers?

Q. Freight and passengers? A. Well I never yet felt that competition to amount to anything. They practically were not allowed to take freight to Rot-

terdam. I think they have a working agreement; I know they have.

Q. I didn't ask you what was the state of affairs?

A. You say competition?

Q. In 1908? A. I don't remember.

Q. Do you know whether the Uranium has a double bottom or not? A. I don't know.

Q. Yet you are the manager of the line? A. Yes, sir.

Q. Haven't you heard that she was rejected by the Russian East Asiatic Steamship Company, Limited, because they considered her unfit for their passenger service? A. No, sir.

2012

Q. You have not heard that? A. No, sir.

Q. You don't know whether that is true or not? A. No, sir. I could not imagine, because she has the finest hull of any ship on the Atlantic today, the North Atlantic trade.

Q. But yet you don't know whether she has a single or a double bottom, and you make that statement?

A. I think she has a single bottom.

Q. And yet you make that statement without knowledge of the fact? A. Yes, sir; double bottom ships you know go to the bottom very often.

Q. What is the name of the manager for the Uranium steamship line in England? A. Harding.

2013

Q. What is his first name? A. H. W., Henry I think, I am not certain.

Q. Did he have anything to do with the Northwest Transport Line? A. I don't know; I don't know whether he took the management of the Northwest Transport Line or not, I don't think he did; I am not certain on that point.

Q. Did he have anything to do with the New York and Continental? A. No.

Q. But the first line that really owned any steamers was the Uranium Line? A. That I have been connected with of the three lines.

2014

*Edward O. Thomas*

Q. You don't know where they acquired those steamers? A. I think I stated where they acquired them.

Q. Now, isn't it a fact that while the Northwest Transport Line was being operated, that these agents, the passenger agents refused to turn over to the Northwest Transport Line the moneys received for prepaid tickets, until the passengers had actually made the trip?

A. I don't know that any definite request was ever made to them. I know they did not want to do it.

Q. They did not want to do it? A. Yes.

2015 Q. And they did not do it as a matter of fact?  
A. They did not.

Q. Do you know why they took that position? A. Certainly.

Q. What was the reason? A. Because the passenger agent was responsible for those passengers as I understand it.

Q. They were rather nervous about turning them over? A. No, sir; not at all; never understood it that way.

*CROSS-EXAMINATION by Mr. Beers:*

2016 Q. There was a certain connection was there not, Mr. Thomas, between the New York & Continental Company, Northwest Transport Line and the Uranium? A. I never knew what that connection was.

Q. You never knew? A. No, sir; if there was any connection I don't know anything about it.

Q. Did you think there was any connection? A. I don't know what I thought.

Q. Had you any information on the subject? A. I don't know whether I had any information.

Q. You don't know whether you had any information? A. No, sir.

Q. You were employed ostensibly by those companies were you not? A. Yes, sir.

*Edward O. Thomas*

2017

Q. There was a certain sequence between the companies? A. One followed the other.

Q. There didn't any two co-exist at the same time? A. Yes, sir; there did; they exist today.

Q. Well, as running the same ships? A. No, sir; the New York & Continental Line is still in existence and so is the Northwest Transport Line. They may not be operating steamers.

Q. Do you know any reason for the transfer of these companies to another? A. I have my own private idea.

Q. Would you favor us with that? A. Well, I imagine that the people who backed the first line, found it a losing proposition. In order to get extra money to operate steamers, they probably changed the name to Northwest Transport Line. The New York & Continental Line had lost a great deal of money and found it better to start over with a clean slate.

2018

Q. Is the same true about starting the Uranium Line? A. No; the Uranium Line started; the Northwest Transport Line failed to make a go of it. The man who was operating, the president of the Northwest Transport Line chartered the steamers from the owners. They put up money to operate, finally got tired of losing money, took the ships over and kept them going in the same trade themselves, that is all. I have never been informed of that officially.

2019

*RE-DIRECT EXAMINATION by Mr. Dorr:*

Q. I suppose the longer time it takes a boat to cross, the greater are its lists of the expenses of transportation of the steerage passengers, for instance, foods; that is the same steamer, for instance, the Campanello would take ten days, the cost of the expense *per capita* would be less than if she took fourteen days? A. Yes.



Edward O. Thomas

2020

Q. And so would the other expenses which you have outlined? A. All other expenses increase proportionately.

Q. So that a faster boat has a certain advantage in the cost *per capita* of the steerage business? A. Not necessarily.

Q. As to those items? A. Well a good passenger is always cheaper, but a faster ship is not always cheaper, may not be.

Q. The steamer expense would be greater for a very fast steamer? A. As I say a very fast steamer, for instance a steamer like the Lusitania could not carry passengers for the same amount of money that a very small steamer could carry them.

2021

Q. That is the coal bill is too high? A. The coal bill is too high, and there are very few ships like the Lusitania only two or three.

Q. And the ships which are in competition with you are—the Lusitania and the Mauretania never have been put on to fight you? A. We could not compete against such ships as that at all; wouldn't attempt to.

Q. The steamers competing with you are ordinarily ten or twelve day steamers? A. Nearly every steamer carry passengers as competing, except express steamers.

2022

Q. That run about ten days? A. Eight days up.

Q. Now Mr. Burlingham asked you about the profits of your line. Your line has not as a rule has it been able to obtain even 500 passengers, though your capacity is much larger? A. From this side, of course, our passengers have been limited.

Q. Take for instance westbound traffic in 1909? A. I don't know how nearly those figures are correct. I know how often the conference has tried to get hold of our figures and have even seen them incorrectly published. They may possibly have gotten it correctly. What are those figures, are those Government figures?

Q. No, those are Mr. Sandford's figures?

Edward O. Thomas

2023

Mr. Burlingham: Mr. Fourman said they were substantially correct.

Mr. Dorr: He assumed they were.

The Witness: I have seen those figures published in the conference lines in a circular, that was way off; generally they are correct.

Mr. Burlingham: Mr. Dorr, I notice that in one, I think it is 1908, there is a notation in regard to this line, saying that the figures are not official.

Mr. Dorr: Eastbound is not official.

2024

The Witness: They always used to call us up for those figures and I always gave them to them.

Q. Take for instance Northwest Transport Line in 1909, westbound, sailing February 21st, there were only 101 Halifax passengers, 180 New York passengers, the total being considerably under 500? A. You will find though that a number of our westbound voyages where we have carried the greatest number of passengers and the sailings around Christmas where we have carried a large number of eastbound.

Q. I am talking about westbound; ordinarily they have not totaled 500, have they?

Mr. Burlingham: That is in 1909.

2025

A. You are going way back; I should say around about 500.

Q. You were saying that these figures were incorrect? A. I don't know anything about those figures and I don't really know the number of passengers we carried.

Q. With a passenger list of two hundred the cost *per capita* would it be higher than where you carried 500? A. Higher, yes.

Q. And the chance for profit, with a small passenger list like that would be very small, would they not?

A. Very much less.

6  
7  
5

2026

Q. Now, your boats, however, were capable of carrying over a thousand passengers were they not?  
A. I should think so; I gave the figures.

Q. And when on the occasions, a few occasions when your ships have not been opposed by fighting steamers, have you been able to secure full passenger lists or a large passenger list? A. I don't know about the full passenger list, but it made a very material difference; I should say almost double.

Q. In 1911 it appears that you carried more passengers; still there were occasions were there not when you were not able to secure five hundred passengers?  
2027 A. Many times; I don't think we would average five hundred for any great length of time.

Q. And on the Eastbound, you were— A. East or Westbound?

Q. I was showing you the Westbound? A. Including Rotterdam, Halifax and New York?

Q. Yes? A. I think we averaged more than five hundred Westbound, I don't know; I don't know what the figures were.

Q. Eastbound you have rarely been able to secure five hundred have you? A. No, sir; except around Christmas sailings.

Q. Now, what are the elements again that you have  
2028 taken into consideration in arriving at your estimate of the cost of carrying steerage passengers, New York to Rotterdam and Rotterdam to New York? A. All of the items, all of the expenses that the ship is put to in carrying those passengers; in other words suppose that ship carried nothing but cargo, there would be no expense at all for passengers; all the additional expense she is put to in carrying passengers, such as stewards, feeding these passengers and stewards, the upkeep and care of the passenger department, but that does not cover the running expenses of the ship, such as the steamship expenses.

Q. The coal? A. Does not cover the coal, does not cover the crew, except the stewards, does not cover any of the officers, does not cover the insurance; does not cover any port expense, does not cover the depreciation. According to our disbursement account it might show \$20 a passenger profit and yet the ship might make a large loss.

Q. *Per capita* profit? A. The way we have our disbursement account made up.

Q. Now will you state what the amount of the various elements of that cost are? For instance, the feeding of the passengers, what is the cost of that? A. I should say that if you can feed a passenger for twenty-two cents a day, you are liberal, I don't believe it costs anyone over that.

2030

Q. How about the steward's expenses? A. Stewards?

Q. Yes? A. It is all bulked together there.

Q. Have you figures from which you can separate? A. Not on this side, well, yes I have too.

Q. Have you also the figures as to the ship expense? A. To the ship expense?

Q. What you call ship expenses for your boats? A. I have in a great many of the items.

Q. Well, the coal? A. Well, I know about how much coal a steamer requires.

2031

Q. And the wages of captain and crew other than the stewards? A. I have some data on that.

Q. And what other items do you charge to ship expenses? A. Ship expenses?

Q. Yes? A. Charge the crew outside of the steward's department, charge the feeding of the crew and insurance.

Q. Have you figures on insurance and feeding the crew? A. I have some figures, but not very good data.

Q. Are you able to state for instance what the gross ship expenses say of the *Volturmo* is for a voyage?

*Edward O. Thomas*

2032

A. It depends altogether on how much cargo she has and how many passengers.

Q. The charges which you call ship expenses, you don't mean the passenger expense or the freight expense, but those particular items which you attribute to the running of the steamers, irrespective of whether she carried any freight or any passengers?

A. I couldn't say offhand.

Q. Have you the figures which would enable you to state with some degree of accuracy? A. I don't think so; the figures that I have don't show any depreciation.

2033

Q. Well, apart from depreciation? A. Some of them don't show insurance, which is a very large item.

Q. Well, you have some which do show insurance, have you not? A. I have on one steamer; I don't know whether I have on the others or not.

Q. What steamer is that? A. I think the *Volturno*, I am not certain.

Q. Well, are there any other items which you haven't got, or are there any other items which you have not got on the *Volturno*, other than depreciation? A. I don't know.

Q. Do you know of any others? A. I know about what all the expenses are of running the ship, but I have none of those vouchers, you know.

2034

Q. Well, you keep a record of the vouchers you said abroad, did you not? A. Yes; but then we don't get the vouchers from the other side here.

Q. Well, on the eastbound trip you purchase the coal? A. We purchase most of it.

Q. How much coal does she burn on an eastbound trip? A. What ship?

Q. The *Volturno*? A. Depends altogether on the quality of the coal.

Q. Well, the coal which you ordinarily burn on the *Volturno*? A. She will burn on the average about six hundred tons I should say, or less.

Q. For the trip? A. Six hundred tons would be enough.

Q. What do you pay a ton for the coal?

Mr. Burlingham: When? I have seen it go up?

A. What I pay a ton for my coal?

Q. Yes, ordinarily? A. I have got a contract it is very confidential; I don't think any steamship line ought to be called upon—

Q. Well, you need not reveal the person with whom the contract was made? A. Every steamship man knows who I buy my coal from.

Q. I won't ask for the particular price which you pay? A. Ordinarily coal costs from \$2.85 to \$3.25. The average passenger line will pay, I should say, about \$3.15.

2036

Q. Is coal the chief item of the steamer's expense?

A. One of the principal items.

Q. What are the other items? A. Insurance is a large item.

Q. What do you pay on insurance on that steamer?

A. I don't know what the rates are.

By Mr. Bullowa:

Q. Do you know what she is insured for? A. I do not.

2037

By Mr. Dorr:

Q. You have the figures, have part of the figures, Mr. Thomas? A. What our ships are insured for?

Q. Yes? A. I may have had some of them.

Q. Will you state, not what the *Volturno* is insured for, but what is your experience in the running of a steamship and perfecting insurance on them, a ship of the size of the *Volturno*, say? A. In other words, you want me to say what the *Volturno* is worth?

Q. No; but what do you pay as insurance for a voyage? A. I really don't know; I couldn't say to

2038

*Edward O. Thomas*

save my life. Insurance is an item that I have absolutely nothing to do with on this side.

Q. Well, it is not an item that is as important as coal, is it? A. No, sir.

Q. You cannot approximate the amount of insurance? A. No.

By Mr. Burlingham:

Q. On the *Volturno* for a voyage or a year?

Mr. Dorr: For a voyage.

Mr. Spooner: Guess at it?

2039

The Witness: No, sir; I don't guess.

By Mr. Dorr:

Q. You stated a few minutes ago that you thought that you had insurance figures for the *Volturno*, did you not, Mr. Thomas? A. I had some, but insurance figures are one item that I have always tried to get a great deal more of than I have for I always thought it necessary for me to have some of them and some figures I have gotten and some they have refused to give me.

Q. Well, taking the figures which you have gotten as a basis? A. No, sir; I couldn't say.

2040

Q. What do you take to be the cost per voyage of insurance on the *Volturno*? A. I couldn't say; I don't even know what the *Volturno* is insured at.

Q. What other items are there of steamer expenses, Mr. Thomas, besides the coal and the insurance? A. There might be hire.

Q. What? A. If you don't own them, it might be hire.

Q. I am talking now about this *Volturno*. You own that, do you not? A. No, sir; we do not own it.

Q. You don't own the *Volturno*? A. No, sir.

Q. Do you own the *Uranium*? A. Yes.

Q. Let us take the hire of the *Volturno*. Do you know what the hire of the *Volturno* is per voyage?

A. I am not sure.

Q. Well, give us your best information?

Mr. Burlingham: It is a written charter party, isn't it?

The Witness: I have never seen the charter party.

By Mr. Dorr:

Q. You have information on it, however? A. I would have to refresh my mind on that point.

Q. You prefer not to give it, as a matter of fact, do you not, Mr. Thomas? A. What?

2042

Q. You prefer not to give it? A. Well, it is a peculiar form of charter any way; it would not do you any good to know it.

Q. Well, I should think you might be perfectly willing to tell us? A. Is that all?

Q. I should like to have you tell, unless if you feel it would prejudice your business interests— A. I don't know what sort of a charter there is. I know that the Uranium Steamship Company does not own the *Volturno*, and whether or not they pay anybody hire for it or what the arrangement is, I don't know what it is. I know they offset a sum of money.

Q. Do you mean they set apart a certain sum for her? A. I don't know whether they set it apart or pay it or what they do.

2043

Q. What is the amount of the sum of money you speak of? A. Sometimes I see it and sometimes I don't.

Q. What is the amount of it?

By Mr. Spooner:

Q. Have you a copy of the charter party? A. No, sir.

By Mr. Bullowa:

Q. Where is it; in London? A. I don't know.



2044

*Edward O. Thomas*

By Mr. Dorr:

Q. Mr. Thomas, what is your best information as to the hire of the *Volturno*?

Mr. Burlingham: Objected to.

A. Well, I say I cannot answer that.

Q. All right? A. I might answer it and I might be too far away on it.

Q. What? A. I might be too far off on it.

Q. Now, aside from the coal and the insurance what other items are there that you charge to ship expense?

2045 A. We charge the upkeep of the ship.

Q. And what does that amount to per voyage? A. I could not say, sir.

Q. You have no figures on that here? A. No, sir; I have not them with me. I have some figures in my office.

Q. Well, what other items are there? How about the wages of captain and officers and the crew? A. I have said the officers and the crew are one.

Q. What are those on a steamer such as the *Volturno*? What are the charges to expense account of the steamer for crew and officers for a voyage? A. I don't know, sir.

2046 Q. Do you know what they are for a year? A. For a year?

Q. Yes? A. No, sir.

Q. Well, do you know what the various officers receive as wages? A. I know something about it.

Q. Can you refresh your recollection from your records? A. I might.

Q. Suppose you do that then, Mr. Thomas, on that point, and also refresh your recollection so far as you can as to the insurance from your records? A. I don't believe I have sufficient data to do it on the insurance; I am pretty certain I have not.

Q. And as to any other items of ship expense, steamer expense, which will enable you to state what the amount of the charges of the steamer expense for a single voyage amounts to? A. I can come pretty close to a lump sum.

Q. Can you give us the lump sum? A. Yes.

Q. Suppose you give us the lump sum? A. I mean by referring to my records. For instance, I know that if we book over a certain amount she usually shows a profit on her gross receipts of so much, and under certain circumstances she would not if she made a long run and had a big repair bill that goes in, which she does not generally have, and she might have.

2048

Q. Now, then, as to your freight expense, are there any particular charges charged to freight? A. We only charge the stevedore and insurance. There are very few items we put on against the freight; brokerage, of course.

Q. So practically what you receive on the freight is available as against ship expense for profit? A. Also for passengers the same way.

Q. Your passenger expense is much greater than your freight expense, is it not? A. Oh, yes.

Q. As you say there are very few items charged to freight expense? A. We have the stevedore bill, which is a very heavy expense. Of course, if we have three or four hundred passengers, your freight expenses are very much heavier than if you have not as many passengers.

2049

Q. Whereas if you had a larger number of passengers it may not be that way? A. Yes.

Q. Have your ships made their sailings with regularity? A. I think with a great deal of regularity with one or two exceptions, or a few exceptions. I don't think in the two years we hardly missed one.

Q. Have you lost any lives or property in this line? A. What do you mean, killed?

*Edward O. Thomas*

2050

Q. Yes, have you lost any ships? A. No, sir.

Q. Have you met with any accidents which resulted in the loss of property or lives at present? A. No, sir; not that I know of.

Q. Have you conformed to the regulations of the United States Passenger Acts? A. I think we have done a little more than conform to them, because they were doubly strict with us.

Mr. Spooner: I did not hear that.

2051 The Witness: I say we have done a little more than conform to them because they were a great deal stricter with us than they were with the regular lines. Where a new ship or a new line comes in they watch them very carefully to see that they do carry out all the laws.

Q. Your boats conformed to the requirements of those laws? A. Yes.

Q. You were asked some questions about the complaints of passengers coming to you. Do you recall receiving complaints as to your service other than the fact that your tickets were said to be no good at the control stations? A. Yes; we have had the usual complaints that come to every passenger line about different little things.

2052 Q. Did you notice that they are of any different character than those which came when you were with the Hamburg-American Line and other steamship lines? A. I had nothing to do with the passenger business in the Hamburg-American Line, but I know those complaints do come to almost all lines.

Q. I will ask you, Mr. Thomas, to refresh your recollection as to the various items of expense, passenger and ship that I have asked you questions about, and after you have refreshed your recollection from that data I will examine you further upon it.

*Edward O. Thomas*

2053

By Mr. Burlingham:

Q. Mr. Thomas, did you carry more passengers westbound than eastbound in 1910? A. I don't remember.

Q. What? A. I don't remember.

Q. Well, according to this report for the calendar year 1910 you carried eastbound one thousand sixteen third class passengers and brought westbound including Halifax, nineteen thousand six hundred forty-two; does that refresh your recollection at all? A. No, sir; it does not refresh my recollection. There are a great many more come here than there are go out.

2054

Q. The emigration from America of third class passengers depends a good deal on the times here, doesn't it, and the scarcity or plentifulness of work? A. Yes, sir.

Q. These steerage passengers go back to Europe when there is nothing to do here; is that it? A. Yes.

Q. And when times are prosperous here they stay here? A. It is generally conceded that it is a sure sign of hard times coming when they commence to go out of the country in great numbers.

Q. You had greater success you said in carrying on the whole westbound passengers than eastbound passengers? A. It is only natural we brought more here than we carried out of the country. Every line has that experience.

2055

Q. Do you claim that you were interfered with by the competition of the Conference lines in westbound steerage traffic? A. I know we were.

Q. It was not by any fighting ships, was it? A. I think they put on fighting ships on the other side too.

Q. What do you base that statement on? A. I have been told so.

Q. By whom? A. I don't know by whom but I have seen it.

*Edward O. Thomas*

2056

Q. By some of these unknown officers of your company? A. I don't know how I know it, but I just do.

Q. You just feel it, do you? A. No; I don't just feel it.

Q. Now, Mr. Thomas, it seems to me a very extraordinary thing you should have been in the employ in a very important relation to these companies for more than six years and not know the names of any of the officers of any of the companies you have been serving.

2057

Mr. Dorr: I object to the form of that question because it is contrary to what the witness has said.

Q. Don't you know the president of any of the companies or the chairman of the Board of Directors? A. There does not happen to be one.

Q. Is there a chairman of the Board of Directors?

A. There does not happen to be a Board of Directors.

Q. Which company are you referring to now? A. The present company.

Q. The present Uranium Steamship Company? A. Yes.

Q. That is a British corporation? A. Yes.

Q. How is it governed? A. How is it governed?

2058

Q. How is it regulated; who controls it, if it has no officers? A. According to the English law, if you know anything about the English law, you don't have to have a president or you don't have to have a Board of Directors.

Q. They have a managing director, don't they? A. I don't think they do.

Q. What have they got? A. So far as I know they are simply carrying on trade.

Q. The name of the manager is Hardy? A. Mr. Hardy.

Q. And the name of the secretary-treasurer is what?  
A. I think his name is Marginson. I don't know how to spell it.

Q. Do you know anything about the stockholders of the company, or the people who hold the shares, if you want a British style of terminology? A. I don't think any shares are issued. I think practically none.

Q. Do you know whether there are any human beings that control it? A. I imagine there might be.

Q. Who are those that you imagine as controlling it? A. I don't know.

Q. Has the Canadian Northern got anything to do with it? A. I don't know. 2060

Q. Have you any shrewd suspicion on that fact?  
A. There might be suspicions, but I don't know what they are.

Q. The firm of McKenzie & Mann, is that a Montreal firm? A. I think they are a Toronto firm.

Q. And McKenzie you know, do you? A. No, sir.

Q. You have met him? A. I don't think I have ever met him.

Q. The other man, have you met him, Mr. Mann?  
A. I never have even seen him.

Q. Did you have any correspondence with him?  
A. Never.

Q. Or with the Canadian Northern? A. Never. 2061

Q. Or with their manager or agents? A. I have had correspondence with some people connected with it.

Q. Now, with all these different elements which go to make up the cost of ocean transportation, unknown to you practically so far as we can learn from the examination of Mr. Dorr, how is it possible for you to say what the cost per capita of transporting passengers is?

Mr. Dorr: I object to the form of that; the witness has testified as to the particular items of steorage expense.

2062

A. How do I know anything? I don't know how I know it.

Q. Are these some of the items that must be considered in determining cost, wages, and provisions; that one item; doesn't that have to be considered in determining the cost? A. Certainly.

Q. Port charges? A. Yes.

Q. Dues to the Government? A. Port charges and dues don't come under the way we define the cost of carrying passengers.

2063

Q. I am not so interested in the way you do it because you have told me that you do it by making three divisions? A. Three or four.

Q. Three or four, but you gave me three, the ship, the freight, the passengers, but I am trying to find out what it costs *per capita* for you to carry your passengers? A. That is impossible; no man could define that.

Q. Nobody? A. No.

Q. It is just then a matter of bookkeeping? A. For instance, suppose you have two hundred passengers on a ship, the ship is bound to lose money.

2064

Q. It depends on whether she had a great deal of freight at a high rate? A. I said only two hundred passengers. If you have in addition to that freight it would make a difference.

Q. If she were full of freight and high class freight she could make money without any passengers, I suppose? A. It depends altogether on the type of the ship.

Q. And the most desirable thing is to have a full cabin list, a full steerage, a full second cabin and a lot of freight; isn't that what you want? A. That is what you want.

Q. Now, besides wages and provisions and the port charges you have pilotage, don't you? A. Yes.

Q. You have repairs, ordinary repairs? A. Yes.

Q. You have the supplies, the ropes and hawsers, canvas and that sort of thing? A. Yes.

Q. You have insurance; is that so? A. Yes.

Q. And if your vessels are under charter, you have the hire whatever it is? A. Yes.

Q. And if she is mortgaged you have the interest on the mortgage? A. Yes, sir.

Q. Is there a mortgage on the Uranium? A. I don't know, sir.

Q. Is there a mortgage on the Campanello? A. I don't know, sir.

Q. Those two boats are owned by the Uranium Steamship Company to the best of your information, are they? A. I am not certain about the Campanello.

2066

Q. She may be owned by some outside individual or corporation? A. I think she is.

Q. Which of those boats is in port now, the Uranium? A. The Campanello.

Q. Cannot you tell from looking at her papers who the owner is? A. Yes, sir. I know how she stands.

Q. You mean you can tell how she stands at least? A. I don't think the name she stands in, she is owned by.

Q. Why do you doubt that? A. Because the man whose name she is standing in has not money enough to own her.

2067

Q. Who is that? A. H. W. Hardy, the manager.

Q. So you have refreshed your own recollection and you say Mr. Hardy was the nominal owner? A. So far as the papers show.

Q. Can you help us to ascertain who was the real owner? A. I don't know.

Q. Have you a suspicion about it? A. I don't suspect anybody.

Q. Would you, Mr. Thomas, venture to say what it would cost the Hamburg-American Line for instance, to carry three or four hundred passengers on the President Lincoln? A. No, sir; I would not.



*Edward O. Thomas*

2068

Q. I observe in this report for passenger movement for 1910 that the *Volturmo* sailed from here on the 21st of May, 1910, with two hundred thirty-five passengers and that the Prince Friederich Wilhelm of the North German Lloyd sailed on the same day with two hundred forty-four steerage passengers. Are you able to state what it cost the North German Lloyd to carry those passengers? A. No, sir.

Mr. Burlingham: That is all.

By Mr. Bullowa:

2069

Q. Mr. Burlingham asked you about the *Campanello*. I understand that the *Volturmo* is chartered to the Uranium Steamship Company? A. I think so, but I don't know.

Q. Do you know by whom? A. I don't know.

Q. Is she also in Mr. Hardy's name? A. No, sir.

Q. Whose name does she stand in? A. The Canadian Northern Steamship.

Q. Do you know who is the president of the Canadian Northern Steamship? A. I don't know.

Q. The Canadian Northern Steamship Company? A. I don't know whether it is the Canadian Northern Steamship Company or Canadian Northern Steamships.

2070

Q. Does that go under the name of Canadian Northern? A. I don't know; I don't think so.

Q. Does it belong to McKenzie & Mann? A. I don't know.

Q. Where was it that you met Mr. McKenzie and Mr. Mann; in London? A. I never met him. I saw him in a restaurant, I just saw him across the room as he was pointed out.

Mr. Burlingham: That is all.

In response to the first subpoena dated June 10 the White Star Line produced everything called for in that subpoena except the minutes

of meetings by representatives of the various Conference lines held March 25, 1908, appointing a committee of three.

2071

In response to the subpoena to the Holland-Amerika Line dated June 25 as stated this morning I produced European railroad tariff and circular to agents, but only the supplemental statements. I will produce later the original statements.

What do you lack of the documents called for in the subpoena to Lawson Sandford dated June 10?

Mr. Dorr: We have the first nine items of that subpoena. As to the eleventh we have the meetings of the American Atlantic Conference for 1908 and June, 1909, but none for the rest of that year and none for 1910. We lack the meetings of the standing complaint committee of the Continental Conference held in New York in 1907, 1908, and 1909, and also minutes of meetings of general managers held in 1908 and 1909.

2072

Mr. Burlingham: I produce minutes of the standing complaint committee of the Continental Conference from January 21, 1908, to May 12, 1908, and state on the authority of Mr. Morse, the secretary of the conference, that these are all that he has in the office, and that there were no further meetings of the standing complaint committee of the Continental Conference nor of the Continental Conference itself, but that the meetings thereafter were of the American Atlantic Conference. Mr. Crim, state what you want.

2073

Mr. Crim: Produce the data similar to that produced last week with respect to the Central and Western Passenger Associations of the Trunk Line Association during the period of time from January 1, 1908, to and including

2074

May 1, 1912, both eastbound and westbound traffic.

Mr. Burlingham: Anything further?

Mr. Crim: That is all.

Mr. Dorr: We ask for the rate lists for passenger service compiled by Mr. Sandford from 1893 to 1912. The letters and telegrams referring to the estimates of lines in competition to Conference lines, proceedings of conferences in Europe between 1903 and 1911.

Adjourned until Monday, July 1, 1912, at 11:30 o'clock A. M.

2075

# UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

<p>UNITED STATES OF AMERICA, Petitioner,  against  HAMBURG-AMERIKANISCHE PACK- ETFAHRT - ACTIEN - GESELL- CHAFT and others,  Defendants.</p>	}	<p>Before: Charles E. Pickett, Esq., Examiner.</p>
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2076

New York, July 1st, 1912.

Hearing resumed pursuant to adjournment.

## Appearances:

Henry A. Wise, Esq.; Goldthwaite H. Dorr, Esq.; Henry A. Guiler, Esq.; John S. Bradley, Esq., for the Petitioner.

Messrs. Burlingham, Montgomery & Beecher, by Charles C. Burlingham, Esq., and Norman B. Beecher, Esq., for The Anchor Line, Ltd., *et al.*

Messrs. Choate & Larocque, by Nelson Shipman, Esq., for Norddeutscher Lloyd, *et al.*

*Emil Lederer*

2077

Messrs. Spooner & Cotton, by L. C. Spooner, Esq., for The Allan Line, *et al.*

Messrs. Lord, Day & Lord, by Lucius H. Beers, Esq., and Allan B. A. Bradley, Esq., for The Cunard Line, *et al.*

Ralph J. M. Bullova, Esq., and Walter Rogers Deuel, Esq., for the Russian East Asiatic Company, *et al.*

EMIL LEDERER, called as a witness by and examined by Mr. Dorr:

Q. What is your business? A. I am connected with the Hamburg-American Line. 2078

Q. In what capacity? A. In charge of the steerage business.

Q. What is your official title? A. I have none at the present time.

Q. Were you formerly assistant to the general manager? A. Yes, sir.

Q. Has that office been done away with in the last two years? A. Why, the official position ceased owing to the death of our resident director and general manager and I ceased to be the assistant to the general manager.

Q. Prior to that time you were second to Mr. Boas in the affairs of the line in this country? A. As far as the steerage department or agency organization was concerned. 2079

Q. What are the duties of the assistant to the general manager? A. Various.

Q. Did they relate to other matters besides the steerage business? A. Yes.

Q. You had charge of the steerage business since about 1895? A. Yes, sir.

Q. How long have you in your capacity as assistant to the general manager, attended meetings of the conferences which have been mentioned here of Continen-

*Emil Lederer*

2080

tal, Mediterranean, and North Atlantic? A. Since 1895.

Q. During the period from 1904 until 1908, what was the steerage traffic in which your line was engaged at this port, between what points? A. Between Germany.

Mr. Spooner: You mean what ports in the United States?

Mr. Dorr: What points on the Continent and what ports in the United States?

Mr. Spooner: You mean—

Mr. Dorr: Hamburg-American.

2081

Mr. Spooner: You are dealing with steerage between the United States and German ports.

Mr. Dorr: To and from, both ways.

A. Between Hamburg and New York, between the Mediterranean ports and New York.

Q. What Mediterranean ports? A. Naples and Genoa.

Q. Any ports in the Adriatic? A. No, sir.

Q. Do you still keep up the Mediterranean business? A. Yes, sir.

Q. At all times since that time? A. Yes, sir.

2082

Q. In 1904 to 1908 or to 1909, what steerage traffic did your company handle; that is to what Continental points, to and from what Continental points? A. We did not handle continental business via the Mediterranean service at any time.

Q. During any of that time? A. No.

Q. Neither before that time nor after did you ever handle Continental business through Mediterranean ports? A. I stated before we never handled Continental business via the Mediterranean service.

Q. You never published any tariffs to Continental points from Mediterranean ports? A. No.

*Emil Lederer*

2083

Q. In 1908, do you recall the formation of the so-called small committee by the conference lines in New York? A. I was not present in the city when the so-called small committee was formed.

Q. How long after its formation did you return to the city? A. About three months.

Q. Had you been appointed during that time? A. Yes.

Q. While you were abroad hadn't you attended any meetings with reference to the formation of the small committee? A. No.

Q. Had you been in conference with any officers of your line? A. Yes, sir.

2034

Q. As to steerage business? A. Yes.

Q. Had you had any conversations with them as to competition which was then existing? A. Yes.

Q. With your line? A. Yes.

Q. In the steerage business? A. Yes.

Q. Have you had any conversations with them as to methods of meeting that competition? A. In a general way.

Q. When had you gone abroad on this particular visit?

Mr. Spooner: I object to that, assuming that he went abroad on this particular visit, don't know whether he did or not.

2085

Mr. Dorr: You did not get my question. This particular trip, take out "visit"?

A. In May, 1908, I believe.

Q. In May, 1908? A. I believe.

Q. Early in that month? A. I stated I went to Europe during May, 1908.

Q. You cannot recall what time in May? A. No.

Q. When did you first learn of the plan or proposed plan to reduce the rates of some ship belonging to one of the Conference Lines on the sailing dates of

2086

*Emil Lederer*

steamers of the independent line or lines? A. It was always the custom to meet competition.

Mr. Dorr: I move that that answer be sticken out and ask you to answer the question. Read the question, please.

(Question read.)

A. As far as I remember we have always met competition.

Mr. Dorr: Read the question to the witness again, if you will.

2087

(Question read.)

A. I stated that that was always the custom.

Q. I have asked Mr. Lederer when you first learned of this plan?

Mr. Spooner: I think his answer is responsive to the question.

Mr. Dorr: I do not suppose Mr. Lederer has always existed or has always been in the steamship business. I am asking now as to his particular information. Now, will you answer the question?

2088

The Witness: As long as I have been in the steamship business I remember that the lines that were attacked by competition would find some way of meeting it.

Q. That is the lines which were united in conference by some agreement, when an independent line came into existence and put on ships and adopted the plan of designating one of the ships of the united lines to sail at reduced rates on the sailing dates of the independent line?

Mr. Spooner: I object to the question as assuming facts not proven and as argumentative.

A. Well, the Hamburg-American Line has always found ways and means to protect its own interests.

Q. Just answer my question, if you will? A. I am trying to.

Mr. Dorr: I move to strike out the answer.

Just read the question.

(Question read.)

A. The lines have not put on a ship on the date of the sailing of an independent steamer as you put it.

Q. Well, I will reframe the question. Have the conference lines ever since you have been in the steamship business, designated some steamer of one of the lines to reduce its rate on the sailing date of the steamers of independent lines? A. The steamship lines have—

2090

Q. Can you answer that question, yes or no? A. I cannot answer it yes or no.

Q. Do the best you can? A. The steamship lines have always met the competition in the best way they could, sometimes by reducing the rates of all the steamers, sometimes by restricting that reduction to meet the opposition of one or two ships.

Will you read the question again?

(Question read.)

2091

Mr. Dorr: I think that is a question capable of a yes or no answer.

Mr. Spooner: The witness said he could not answer it yes or no.

Mr. Dorr: I press the question.

Q. What is there in that question that makes it impossible for you to give a yes or no answer, Mr. Lederer? A. You asked me when the Conference lines have designated a steamer to meet the rates of a steamer of an independent line.



*Emil Lederer*

2092

Mr. Dorr: I have not asked you that. Read the question again, please.

(Question read.)

Q. They have done that or they have not done it; have they done it ever since you have been in the business?

Mr. Spooner: You are not obliged to answer that question yes or no. He stated he could not answer the question.

Mr. Dorr: Then I take it an answer of no can be made to the question.

2093

Mr. Beecher: "Have you quit beating your wife" I think it is for that objection.

Mr. Dorr: I understood Mr. Lederer had already answered it, the fact that they have been doing this thing as far as he can recollect, always have done it.

Mr. Beecher: I think if you strike out that date business you may get it.

2094

Q. Mr. Lederer, as to the appointment of the so-called small committee, did a committee representing the Conference Lines and parties to the agreement of February 5th, 1908, designate a steamer of one of the conference lines which should reduce rates for its sailing on the sailing date of the independent line? A. They have selected from among the steamers sailing on or about the same time as the independent steamer, a steamer of the Conference Lines to meet the competition of the independent line.

Q. Now, suppose you answer my question? A. I believe I answered it fully.

Q. You regard that as yes or no to my question? A. Repeat the question.

(Question read.)

Q. Did they or did they not do that? A. I have answered your question fully.

*Emil Lederer*

2095

Mr. Spooner: Read the answer.

Mr. Dorr: You will have to let us be the judge of that.

Q. Can you answer that, yes or no?

Mr. Spooner: I have the right to have the answer he gave read.

Mr. Dorr: Certainly.

(Answer read.)

Mr. Spooner: Isn't that an answer to your question?

Mr. Dorr: I do not consider it such.

2096

Q. Can you answer my question, yes or no? A. I cannot, not the way you put your question.

Q. Why not? What is there in it that keeps it from being susceptible of a yes or no answer? Well, let us take it up, phrase by phrase if you prefer. Was there a small committee in 1908 selected by Conference Lines in New York, Mr. Lederer? A. I have not been able to find out that such a committee was selected or appointed. The matter of fact is that some committee was charged with taking steps that were necessary to protect the interests of the Conference Lines and report results to their general managers.

2097

Q. Have you no recollection then of the designation of a so-called small committee by the Conference Lines in New York, in 1908? A. I have not.

Q. Were you a member of a certain so-called small committee? A. I was a member of a great many small committees.

Q. Were you a member of a small committee, appointed by the conference lines in New York in 1908 or thereafter, of which Mr. Nyland was a member? A. I was a member of a small committee, which if it was appointed at all must have been appointed during 1908, while I was in Europe. I have been very

*Emil Lederer*

2098

anxious to find out how this committee was appointed. I have not been able to ascertain the exact date of the meeting at which it is alleged that small committee was appointed, but there is no doubt that a small committee existed nominally.

Q. And that small committee was composed of representatives of Conference Lines, was it not? A. That small committee was composed of members of the so-called complaint committee.

Q. Mr. Lederer was or was not this small committee composed of representatives of Conference Lines?

2099

Mr. Bullowa: He has answered the question.

A. I have specified.

Q. Was it or was it not? A. Members of the complaint committee of the New York Conference.

Q. It was then composed of representatives of Conference Lines? A. While I was a member of the small committee, I don't consider myself a member of the Conference Lines.

Q. Was it or was it not composed of representatives of Conference Lines?

2100

Mr. Spooner: I object.

A. Yes.

Q. It was. Now, did the various lines, various Conference Lines appoint different representatives in rotation as members of that committee? A. Yes.

Q. Was that committee known as the small committee? A. Yes.

Q. Did that committee designate some ship of a Conference Line to reduce its rate for its sailing on the sailing date of a ship of an independent line? A. They selected—

Q. They did not designate; they selected, is that the only difficulty with that question? A. You may call it designate if you prefer.

Q. I do not care; I want to know the fact; you prefer to say selected?

Mr. Spooner: They could not very well select without designating it, could they?

Mr. Dorr: That is for your employe to say.

Mr. Spooner: That is for your intelligence.

Mr. Dorr: He is choosing the words; not I, Senator.

\*A. The small committee was selected from among the steamers owned by lines of the conference, to meet the opposition of independent lines. 2102

Q. Well, did they designate a ship or select a ship to reduce its rate on the sailing date, on its sailing on the sailing date of an independent line; did they or did they not do it? A. Sometimes, yes.

Q. Did they do it? A. Sometimes they did.

Q. Now sometimes? A. Yes.

Q. Can you state how many times since 1908 the ships of independent lines have sailed from New York, engaged in the North Atlantic steerage traffic, on which sailing date some ship of the Conference Lines has not reduced its rate? A. Several times. 2103

Q. Well, state when they were? A. I could not state the exact dates.

Q. By several you mean two or three, or three or four? A. About that.

Q. Now, when was it that your knowledge, to your information, some ship of a Conference Line was selected by representatives of Conference Lines to reduce its rate for its sailing on the sailing date of an independent line? A. I could furnish you with an exact statement, showing steamers and dates of the independent line.

*Emil Lederer*

2104

Mr. Dorr: I move to strike it out as not responsive and ask that the witness answer the question.

Mr. Spooner: You did not want the information then in complete and accurate form.

Mr. Dorr: I will get my information in the order which I ask for it Senator if I have to stay here all day.

Q. Now, Mr. Lederer will you answer the question?

A. Whenever we thought it necessary to do so to meet the competition.

2105

Mr. Dorr: Will you read the question again?  
(Question read.)

Q. When was that first done to your knowledge?

Mr. Dorr: I move to strike out the last answer.

A. I can look up the records, exact records, exact facts.

Q. Have you any present recollection when that was done? A. I don't recall the time when there was not some trouble among some group of steamship lines.

2106

Mr. Dorr: I move to strike that out as not responsive.

Q. I repeat Mr. Lederer, when was the first time that you know of or which you had information of that representatives of Conference Lines selected some steamer of one of the Conference Lines to reduce its rate for its sailing on the sailing date of an independent line? That calls for a date. If you cannot give it correctly give it as nearly as you can? A. sult in the recommendation to reduce rates. Meetings of the various committees did not always re-

Mr. Dorr: I move to strike that out as not responsive and I repeat my question.

(Question read.)

A. I cannot give you the precise date, as I have not always been a member of committees that have such matters in charge.

Q. Well, this question Mr. Lederer, if you will pay attention to it, calls for your knowledge or information on the subject. I am not asking you to testify positively when this was first done as a matter of history, but when it was first done to your information and knowledge. Let us have the first date of which you have any knowledge or information? A. I should think you would prefer to get the exact information. 2108

Q. I will get what you have to say first?

Mr. Spooner: You will have to submit to a certain amount—

Mr. Dorr: You will have to submit Mr. Lederer to a certain amount of insistence that my question be answered. Of course, we have not here the protection of the Court, so the witness is able to waste a considerable amount of time.

Mr. Spooner: I think if the Court were here he would protect the witness. 2109

Mr. Dorr: I think if the Court were here he would make the witness answer my question.

A. I would say 1908, as far as I can remember.

Q. In 1908? A. Yes, sir.

Q. You have no information prior to that as to the selection of the ships of the Conference Lines or the representatives of those Conference Lines to reduce its rate for its sailing on the sailing date of independent lines prior to that time? A. No.

2110

Q. When did you first learn that this practice had in fact been adopted? A. In 1908; September, 1908, upon my return from Europe.

Q. Had you learned prior to that time that it was proposed by the Conference Lines, or by certain of them, or by certain of the officers, to establish this practice? A. No.

Q. You had heard nothing whatever about the matter? A. No.

Q. Had you had any discussions about the matter? A. No.

2111

Q. When you were abroad in May or thereafter in 1908? A. No.

Q. You had no discussions with any of the officers of your line about the matter? A. No.

Q. You were in charge of the steerage business of your line, were you not, in 1908, under Mr. Boas? A. Under Mr. Boas.

Q. But you were the practical man in charge, were you not, assistant to the general manager? A. I received my orders from Mr. Boas.

Q. But Mr. Boas did not attend to the details of that business, did he? A. Yes, sir.

Q. So that all you did was simply to carry out his specific instructions? A. Exactly.

2112

Q. Had no discretion of your own? A. Exactly.

Q. Your judgment was not asked about matters in the steerage business? A. It was at times.

Q. You had the experience of twelve years in that business, did you not, at that time? A. Longer than that.

Q. Well, thirteen years at that time, to be exact? A. With the Hamburg-American Line.

Q. With the Hamburg-American Line, yes; were you not? A. Yes.

Q. And you were over there in May on business of your line? A. Yes.

Q. And the part of the business of your line with which you were concerned was the steerage business, was it not? A. Yes.

Q. And you have learned, have you not, that it was in May, 1908, that the first so-called small committee was elected or appointed, or however they came into being, which committee in fact dealt with the selection or designation of the so-called fighting ships; you have learned that, haven't you? A. I understand that the order to meet the competition of the outside lines was given by the companies in Europe to their officers in America.

Mr. Dorr: Move to strike it out as not responsive.

2114

(Question read.)

A. I don't know when this committee was appointed nor by whom it was appointed.

Q. You have already stated that you did not know how it came into being; have you not ascertained the facts by conversations with others, and in other ways, that the committee did come into being in the latter part of May or June, 1908? A. I so understand from some of the testimony given by some of the witnesses.

Q. You never had any information about that prior to that testimony? A. I didn't know the time or place at which this committee was supposed to have been appointed.

2115

Q. While you were abroad in May on business of your line, do you mean to say, Mr. Lederer, that you were not consulted as to the institution of this practice? A. This subject was never mentioned by anyone on the other side.

Q. What officers of your line did you see over on the other side? A. I met several of the officers.

Q. Who were they? A. The director general and some of the other directors.



*Emil Lederer*

2116

Q. Did you confer about steerage business? A. I did.

Q. But did you confer about the existence of any independent line? A. No.

Q. Or mention any independent line? A. No.

Q. It never was discussed at all? A. The subject was not mentioned.

Q. While you were over there and prior to your return, did you have any conversation with Mr. Peters?

A. I met Mr. Peters.

Q. Did you have any conversation with Mr. Peters?

A. Not in business matters.

2117

Q. Nothing connected with the Conference Lines?

A. No, sir.

Q. Who was the Mr. Peters you referred to? A. He was secretary of the pool in Europe.

Q. Now, Mr. Lederer, when you returned, or after your return you became a member of the so-called small committee? A. Some time after my return from Europe I was told that the lines—

Q. Can't you answer that question, yes or no? Sometime after your return did you or did you not become a member of the so-called small committee, which you refer to in your testimony? A. Nominally, yes.

2118

Q. You became nominally a member of that small committee, is that what you mean? A. Yes; this small committee is a myth.

Q. There wasn't any small committee? A. Not that I know of.

Q. Purely mythological? A. The committee has never held any meetings as long as I can remember. There is no doubt the fact that the passenger agents of some of the lines selected a steamer, selected an opposition steamer from among the ships sailing on or about the same time and belonging to the Conference Lines to meet the opposition of the independent lines.

Mr. Dorr: I move that it be stricken out.

Mr. Beers: That is responsive, Mr. Dorr.

Mr. Dorr: The latter part of it was not.

Mr. Beers: It was exactly in line with your question. I may be mistaken.

Mr. Dorr: I will withdraw my motion, I was not paying strict attention to the answer.

Q. In Exhibit No. 106, which is already in evidence, a letter from the Holland-American Line to the defendant Adrian Gips, states under date of April 16, 1909, "the small committee, consisting of Mr. Emil Lederer, for the month of April; Mr. Nyland, for the month of April, and Mr. Winters for the months of April, May and June, then took the matter of considering a fighting steamer against the S. S. Uranium scheduled to leave to New York on the 24th in hand." There wasn't any such small committee? A. I am not responsible for what Mr. Gips writes to his company. 2120

Q. Have you any correspondence of your own company with the home office about that time? A. On what subject?

Q. Have you any correspondence whatever from this country, your own company to its home office? A. Correspondence from the company? 2121

Q. Correspondence from your New York office to your home office? A. I believe we have.

Q. And that is in New York? A. Yes, sir.

Q. And your line was served with a subpoena to produce any letters relating to the so-called fighting or defendant ships? A. I have not seen a subpoena calling for that.

Q. Have you had Senator Spooner ask you to institute a search for such letter? A. The subpoena did not call for any correspondence.

Mr. Spooner: There was no such subpoena.

Mr. Dorr: I knew that, but I understood you to say you would have a search made.

Mr. Spooner: They are not in default at all.

Mr. Dorr: I am not intimating that; I will put it on record if you desire. I asked if he made a search according to your direction.

Mr. Spooner: No, I did not direct him to.

Q. You have not received any directions from Senator Spooner in the matter? A. No.

2123 Q. Do your officers make a report to the home office, when one of the steamers have been selected to reduce its rate on the same sailing date as a steamer of an independent line? A. Our company invariably advises the home office by cable of the number of passengers carried by a ship as soon as she leaves port.

Q. That is very interesting, Mr. Lederer, if you try to listen to the question— A. I have answered your question fully.

(Question read.)

A. We make a report of everything.

2124 Q. If I don't make my question clear, let me ask another question: Did the New York office of your line report to the home office the selection of one of its ships to reduce its rate for a sailing on the sailing date of an independent line, when such selection had been made? A. Yes.

Q. You wrote a letter to your home office—to that effect, didn't you? A. Yes.

Q. Did your line—the New York office of your line—report to the home office, the fact, if it was a fact, that this selection had been made by the so-called small committee? A. We simply reported the departure of a steamer, giving the number of the passengers carried and the rate at which the passengers were carried.

Q. Did you make any report to your office that the so-called small committee had made the selection in question? A. I never wrote on that subject.

Q. Did you ever see any letter on that subject? A. No.

Q. What? A. No.

Q. Do you recall whether or not you communicated the fact of the selection of one of your steamers by the so-called small committee to any officer connected with you? A. I did not write on that subject to anyone.

Q. Did you inform Mr. Boas as to that fact? A. I informed Mr. Boas as to the condition of the business from week to week. 2126

Q. Did you inform Mr. Boas of the fact—when it occurred—that the small committee had selected one of the steamers of your line to reduce its rate for sailing on the same sailing date as the ship of an independent line? A. I always submitted the question for his approval as far as it concerned our ships.

Q. That is, after the small committee had made the selection you would discuss that selection with Mr. Boas? A. I can hardly speak about the small committee other than I did before; there was not a small committee.

Q. Was there a group of three men who at meetings that they held or over the 'phone, or by correspondence, discussed among themselves— A. The usual— 2127

Q. —the selection of some ship of a conference line to reduce its rate for sailing on the date of an independent line? A. The usual procedure was—

Q. Can't you answer that question, whether there was such a group, that did do those things; can't you answer that question, Mr. Lederer? A. I am trying to give you the facts.

Q. Try to answer the question, Mr. Lederer, and we will get the facts, I think, quicker in that way than any other? A. You will get the facts quicker if you let me answer in my own way.

Mr. Beers: Let him answer and if you don't like the answer move to strike it out.

Q. (Question read.) Was there such a group of men to your knowledge or information who in fact did these things; isn't that fairly clear; do you understand that Mr. Lederer? A. I understand your question fully but I cannot answer it in that form.

2129

Q. Was there such a group of men? A. No.

Q. You know Mr. Nyland, and you know Mr. Winter? A. Yes.

Q. In April, 1909, or if you cannot recall the precise date, but about that time, did you and Mr. Nyland and Mr. Winter, discuss the selection of some steamer of the Conference Lines to reduce its rate for its sailing on the sailing date of an independent line? A. I discussed it with either one or the other of the two gentlemen, or with both, and with others.

2130

Q. These discussions which you had at the period when you would do that discussing, would amount to about how long? About a month, two months, three months? A. Oh, once in a while they called me up over the telephone and got my opinion as to which would be the best ship to select from among those scheduled on or about the time the opposition, or the outside lines, made the lower rates, to meet that opposition.

Q. Then at certain times, at any rate, there were two or three men who used to discuss this question of reducing the rates of some steamer of the Conference Lines, was there not? A. To discuss matters in a general way.

Q. As to who those men were—who the particular men were who discussed that at that time, name them?

A. It was discussed amongst all the representatives of the lines.

Q. This group of men or this small number of men, if you prefer that, was that or was it not known among the members themselves as the small committee? A. I understood that some of the members of the so-called complaint committee should consider the situation from time to time and select from among the steamers of the Conference Lines, sailing on or about the date of the opposition steamer, the best ship or boat to meet competition.

Mr. Dorr: I move to strike it out as not responsive. 2132

Q. Now, if you will read the question (question read); now will you answer the question Mr. Lederer? A. Yes.

Q. It was known as the small committee? A. Yes. I answer it that way to get through quicker, although I understood that the small committee was a myth and was *non est*.

Q. But this myth had the name of the small committee, that was the name given to the committee? A. I had not heard the name of that small committee until I read the testimony.

Q. Why do you answer now under oath that that group of men was known amongst its members as the small committee? A. I understood so from the testimony of some of my colleagues. 2133

Q. When a ship has been designated to reduce its rate, do you recall what steps if any were taken, for the compensation of the line whose ship was appointed? A. I do not.

Q. Perhaps I had better put that question—or split it up into two parts. In the first place, do you recall whether or not there were any steps taken for the compensation or remuneration for such steamship

2134

line, and whether it was discussed by you with any person? A. I do not.

Q. You never had any conference with any one about that subject? A. No.

Q. Did you ever see any correspondence in relation to it? A. No.

Q. Can you state positively whether or not there is an agreement by which the different lines mentioned in the conference shared the losses or the profits through running reduced rate ships? A. I know there is such an agreement.

2135

Q. What is your information and when did you obtain the information as to the existence of such an agreement? A. When the subpoena was served upon our company to produce such an agreement.

Q. Did you produce that agreement? A. Our company did produce that agreement.

Q. What agreement do you refer to? A. To the agreement that was called for in the subpoena.

Mr. Dorr: Have you it, Mr. Spooner?

Mr. Spooner: You have it; you have had it a long time.

Mr. Dorr: I don't recall that particular paper.

2136

Mr. Beers: About compensation for the loss—

Mr. Dorr: For sharing the loss or profits of the fighting ships.

Q. You turned that over to Senator Spooner? A. I turned it over to the late Mr. Boas who handed me a package requesting me to pick out the paper which the subpoena called for.

Q. And then the subpoena to which you refer was the subpoena to produce certain documents before the Grand Jury, and not a subpoena in this proceeding?

Mr. Spooner: Before the Grand Jury?

Q. What was the answer Mr. Lederer? A. Investigation by the Grand Jury.

Mr. Spooner: I want to say none of those papers did I receive. I say that because you ask about the papers.

Mr. Dorr: Yes, I ask that to clear it up so that it would not appear in your hands.

Mr. Spooner: It has never been in your hands, or any of the papers that were subpoenaed before the Grand Jury.

Mr. Dorr: The Government states on the record that it is not intended by its questions to imply that Senator Spooner has now the papers which were turned over by Mr. Lederer to Mr. Boas for production before the Grand Jury. 2138

Mr. Spooner: I have not now and never had them.

Mr. Dorr: Or that Senator Spooner has ever had them.

Mr. Spooner: I didn't know that they were in existence.

Q. What were the terms of that agreement, Mr. Lederer? A. I didn't read them over.

Q. Did you ever read them over? A. I did not. 2139

Q. How did you know it was the paper called for in the subpoena? A. By looking at the title.

Q. What was the title? A. The title that was called for in the subpoena.

Q. What was it? A. I don't remember.

Q. Can you explain why no such agreement has ever been produced, or not produced? A. All the agreements that were in the possession of our company have been produced.

Q. Did you produce them? A. I did not.

Q. Were you present at the Grand Jury room when Mr. Boas was present? A. No, I was not.



*Emil Lederer*

2140

Q. Do you know what he produced? A. He produced the agreements that were called for in the subpoena?

Q. You were there and know what he produced?

A. I was not present at the Grand Jury room.

Q. You appeared before the Grand Jury, did you not? A. Yes.

Q. Do you recall whether or not you were asked this question—and made this answer—

Mr. Spooner: I object to the question on the ground that it is an incompetent and improper disclosure—

2141

Mr. Dorr: I withdraw the question.

Q. I show you a certain paper, Mr. Lederer, and ask you to read it?

Mr. Burlingham: What are you showing the witness?

Mr. Dorr: A paper.

Mr. Burlingham: Are you going to show it to us?

Mr. Beers: How can we cross-examine him now if we don't see it?

Mr. Dorr: I am showing the witness a paper and ask him to read it and see if it refreshes his recollection.

2142

Mr. Bullowa: I ask to have the paper marked for identification.

Q. Now, Mr. Lederer, I ask you this question: Can you state positively whether there is or is not an agreement by which the different lines mentioned in the conference shared the losses or profits through running reduced rate steamers?

Mr. Burlingham: Will you kindly inform the stenographer what you have shown the witness so that we may have the benefit of that?

Mr. Dorr: I have shown the witness a paper.

Mr. Bullowa: Will you have it marked for identification?

Mr. Dorr: I haven't the slightest objection.

Paper with the figures 39 in the upper corner marked Exhibit No. 207 for identification.

Mr. Burlingham: It seems to me if Mr. Lederer answered the question he should be asked if his recollection was refreshed from the paper.

(Question read.)

Mr. Bullowa: It seems to me before you put that question you should ask the witness if he read it.

2144

The Witness: No, I didn't have a chance to read that.

Q. Oh, you didn't; I will lay it before your eyes (handing witness paper); have you read it? A. Yes, sir.

(Question read.) A. There is not.

Recess taken until 2:00 P. M.

2145

Afternoon session.

EMIL LEDERER, recalled:

*Direct-examination continued by Mr. Dorr:*

Q. Mr. Lederer, do you recall whether there was any discussion between you and the other members of the so-called small committee, as to arranging for a remuneration to be given by the other Conference Lines to that line whose steamer was selected to put in effect the reduced rate? A. I do not.

Emil Lederer

2146

Q. Didn't that question ever come up at all in that small committee? A. No.

Q. Did it ever come up with Mr. Boas? Did you ever take it up with Mr. Boas? A. No.

Q. Did you ever discuss it with him at all? A. No, sir.

Q. Were you familiar with the general provision of agreement "AA" which has been offered in evidence, to the effect that the various parties to that agreement would share proportionately in the steerage traffic? A. I have heard of that agreement.

2147

Q. That is, you knew that there was that agreement between the various Conference Lines that were parties to that agreement to the effect that each one would be entitled to a certain *pro rata* share of the North Atlantic steerage traffic? A. Yes.

Mr. Spooner: Which agreement is that?

Mr. Dorr: Agreement "AA."

Mr. Spooner: That speaks for itself, doesn't it?

Mr. Dorr: Yes; I am asking him about his knowledge of it.

2148

Q. Now, what was the practice under that agreement in determining the *pro rata* shares; what was the practice as to those passengers who were carried by the reduced rate ships; were they considered and treated as part of the *pro rata* share of the particular lines whose steamer was designated to run at the reduced rate? A. I don't know that.

Q. Had not you had any conversation with Mr. Boas or any other officer of your line in regard to that? A. No.

Q. You have no information whatever on the subject? A. No.

Q. Direct or indirect? A. No.

Q. In regard to how those *pro rata* shares were arrived at? A. No.

Q. Or how they were affected by the passengers which were carried on the reduced rate ships? A. No.

Q. Now, at times it happened, did it not, Mr. Lederer, that more passengers would be booked for a reduced rate ship than that ship could carry, that happened did it not at times? A. It did happen that ships were overbooked.

Q. And it happened in regard to these reduced rate ships, did it not? A. It may happen in the case of a ship. 2150

Q. Haven't you information definite enough on the subject to say whether or not it did in fact happen as to such ships? A. It happened frequently in the fall and winter seasons.

Q. And it happened in regard to these reduced rate ships? A. It may have happened.

Q. When you say may, what degree of certainty have you in your mind, Mr. Lederer; aren't you basing that on information which you obtained as a passenger man, steerage passenger man of your line? A. I can speak only for the steamers of the Hamburg-American Line.

Q. Hadn't it happened in the experience of your line? A. Yes. 2151

Q. In regard to these reduced rate ships? A. All ships.

Q. Including the reduced rate ships? A. All ships.

Q. Now, whenever you overbooked on these reduced rate ships, what did you do with the passengers who had been so overbooked? A. When we overbooked on any ship—

Q. I am talking about these particular ships? A. It applies to all ships that you mention.

*Emil Lederer*

2152

Q. I am asking you about the reduced rate ships; now what did you do in regard to that? A. I made no distinction between reduced rate ships—

Q. Just a minute, Mr. Lederer? A. It applies to all ships.

Q. Just answer my question first, Mr. Lederer and then your counsel will bring out anything that he desires in connection with the matter. Now what did you do in regard to passengers who were overbooked for a reduced rate ship; what has been your practice? A. I don't know exactly what you mean by reduced rate ships.

2153

Q. What I called fighting ships, when a fighting ship or defending ship, if you prefer to call it such, when overbooked, what did you do with the surplus passengers whom you were unable to carry on that particular ship? A. I don't know what you mean, your expression "fighting ships;" you mean opposition steamer?

Q. I am talking now about the ships which are mentioned in that letter which I just showed you, supposed to be appointed by the small committee; you know what I mean? A. Passengers that were overbooked in every case were transferred to the first outgoing steamer.

2154

Q. That is, if you overbooked for a so-called fighting ship, you would transfer them to the first outgoing steamer of your line or some other line? A. Passengers overbooked by any ship are transferred.

Q. Just answer my question. A. (Continuing.) To the next following ship.

Q. Did you when you overbooked passengers for a fighting ship, transfer the surplus passengers to the first outgoing ship, irrespective of what line that was? A. I cannot recognize the term "fighting ship."

Q. You recognize—you have heard some of these letters of the Holland-America Line read in evidence, have you not? A. Only one.

Q. Well, do you recognize the term "defending ship"? I believe that was the expression which was used by the answer of your line; do you recognize what that word means? A. Yes, defending ship, opposition steamer.

Q. Well then, using your term defending ship, when a defending ship if you prefer that to a fighting ship, had overbooked, did you transfer the surplus passengers to the first outgoing ship, irrespective of what line that ship belonged to? A. Yes.

Q. Did your line pay the other line for those passengers, if the first ship happened to be a ship of another line? A. Undoubtedly our line paid for those passengers.

2156

Q. What rates did they pay? A. I don't know.

Q. Did they pay the rate which you had been charging those passengers, or did they pay a higher rate? A. I couldn't state that; payments were made on the other side.

Q. Well, can you state positively whether any payments at all were made? A. I have no doubt that our company paid for the passengers overbooked, transferred.

Q. Now, you have definite information that payments were made and that those overbooked passengers were not reckoned in on the pro rating of the passenger traffic? A. I have no idea as to that.

2157

Q. Then you don't mean to say positively that there were any payments made whatever? A. I am sure that our company paid for the passage of the overbooked passengers.

Q. Have you any information as to whether they paid the regular published rate of the other line or whether they paid the same rate which they had received from these passengers themselves? A. I don't know, but I can obtain that information for you if you so desire.

2158

Q. You have no information about that on this side in your office? A. No; payments were not made on this side. The line simply accepted the passengers and honored our tickets. In other words our passengers were forwarded under our tickets, on our tickets; the settlement was left to the other side.

Q. Now, just before recess, Mr. Lederer, I understood you to say that there was no arrangement by which the steamers of other lines shared either the profits or losses if there were any, resulting from the operation of the reduced rate ships; there was no such agreement? A. Not that I know of.

2159 Q. Now, on a rate of \$20, would there be a loss in carrying passengers? A. I don't think so.

Q. If passengers were carried in large numbers at \$20, would there not be a profit? A. Perhaps.

Q. Well, cannot you speak more positively than that about it, Mr. Lederer? A. No.

Q. Have you any more accurate information about it now than you had in 1910? A. No.

Q. Did you not state in 1910 that they certainly could be carried at a profit?

Mr. Bullowa: I object to that.

2160 Q. Haven't you stated on some occasion in 1910 that they certainly could be carried at a profit? A. I refer to my answer to your last question.

Q. Just answer this question, if you will, Mr. Lederer? A. My last answer covers that question.

Q. I show you and ask you again to look at this Exhibit 207 for identification, and read the same (handing book to witness)?

Mr. Spooner: Are you reading that, Mr. Lederer?

The Witness: I am trying to read it.

Mr. Spooner: What are you reading from?

Mr. Dorr: From the paper which I showed him, Senator Spooner.

*Emil Lederer*

2161

The Witness: Typewritten book.

Mr. Spooner: Testimony given before—

Mr. Dorr: I object to the witness being interrupted; not cross-examination. I ask the witness to look at the paper, and I object to my examination being interrupted.

Q. Well, at the \$21 or thereabouts on your reduced rate ships, did you not make a profit in your steerage business? A. We do.

Mr. Dorr: Your witness.

2162

*CROSS-EXAMINATION by Mr. Spooner:*

Q. Mr. Lederer, when you were testifying this afternoon the District Attorney handed you a book, open book, do you remember? A. Yes.

Q. And called your attention to something in it? A. Yes.

Q. Did you read it? A. I did.

Q. What was it? A. A question.

Q. I know but— A. Which I remembered to be one that was asked of me by the United States District Attorney in an investigation before the Grand Jury.

Q. That was marked as an exhibit, was it not, for identification, No. 207?

2163

Mr. Spooner: Will you permit me to see that page, Mr. District Attorney, for the purpose of cross-examination?

Mr. Dorr: For the purpose of cross-examination.

Mr. Spooner: Of the witness; that page only.

Mr. Dorr: I do not suppose you want to see anything more except those matters that relate



2164

particularly to the questions asked of the witness?

Mr. Spooner: That is all.

Mr. Dorr: I prefer to take the matter up with you tomorrow. I am perfectly willing to state on the record that there is nothing in the exhibit for identification which does not agree with the testimony which the witness has just given, if that is what is in your mind?

2165

Mr. Spooner: Will you be kind enough to permit me to have before me that page which you showed the witness and which was his own testimony on a former examination on the same subject, for the purpose of cross-examining him.

Mr. Dorr: I do at this time. I have no objection to your postponing the cross-examination, until I can give you a final answer on that.

Mr. Spooner: I have no right to ask him what he testified to before the Grand Jury?

Mr. Dorr: I take it neither of us have.

2166

Mr. Spooner: Of course, you have no right to do directly what you have no right to do indirectly, and you have no right to do indirectly what you have no right to do directly. I want to confine myself entirely to what you showed the witness and not interrogate him about anything else.

Mr. Dorr: At this time this is a paper marked for identification.

Mr. Spooner: But you used it.

Mr. Dorr: And the contents of it have not been brought out by my questions or the witness's answers, it seems to me.

Mr. Spooner: Did not you ask him whether he testified what it was?

Mr. Dorr: No, I did not.

Mr. Bullowa: You asked him to refresh his recollection.

Mr. Spooner: My recollection is you did ask him.

Mr. Dorr: I think, Senator, I did not; in fact, I am quite sure I didn't. Of course the record will show.

Mr. Spooner: Can you turn back readily?

Mr. Dorr: I ask him this, which may be what you have in mind; I asked him whether he did not state at a previous time a certain thing.

Mr. Spooner: You handed it to him to read, did you not? 2168

Mr. Dorr: No; I ask him whether he had made such a statement; that is all.

Mr. Spooner: You could not have asked him that without using the Grand Jury testimony.

Mr. Dorr: You are assuming, pure assumption on your part. He does not know and cannot know what these papers are, from the very nature of them.

Mr. Spooner: Why, cannot he know?

Mr. Dorr: If they were what you think they are he certainly could not. 2169

Q. Mr. Lederer, suppose—take the case of a fighting ship, or a defending ship or whatever you call it, designated to sail on the same day, or approximately a near day, of a ship belonging to the independent or opposition lines, under this agreement who would have the profit and loss of that ship; I mean, who would have the profit and who would have the loss of the fighting ship, in respect of steerage passengers? A. The profit and the loss of the respective ships is borne by the owner.

2170

Q. And the profits in the transportation of the steerage passengers? A. By the owners.

Q. All of it? A. Yes.

Q. Now, what the District Attorney was trying to get at, I think, was what proportion, if any, of profits or loss, loss we will call it, would be borne by the Conference Lines in case of a fighting ship?

A. I understand that the difference between the reduced rate and the regular rate, with a certain maximum, would be borne by the lines, members of the agreement "AA," in accordance with the proportion allotted to them under the agreement.

2171

Q. That is all there is to that? A. Yes, sir.

Q. You speak of meeting competition of the so-called independent ships; what did you mean by that?

A. I mean that we had to take the necessary steps to protect our interests. We could not afford to sit by idly and see—

Q. That I understand; that is the reason for sending the ship, the defending ship. I am speaking now of the rate which was made on the defending ship; was that a rate which simply met the independent or outside ship, or was it a rate which cut under the rate of the outside ship? A. We have never fixed our rate below that of the competing steamer.

2172

Q. Simply met their rate? A. We have met their rate far enough to secure to ourselves a proper share of the business, or in other words, to prevent the competing steamers from running away with all our business.

Q. You say you have met their rates; you stopped there, is that what you mean you did? A. We quoted sometimes a rate that was higher than the one advertised by the competing ship, but in no case did we reduce our rate below their actual rates.

Mr. Spooner: I expect to resume this, but will leave it for the present.

*Emil Lederer*

2173

*RE-DIRECT EXAMINATION by Mr. Dorr:*

Q. Mr. Lederer, are you quite positive that no ship of your line reduced its rates below the published rate of the independent line? A. Below the actual rate.

Q. It is true then that you reduced it below the published rates of the other lines; your published rate was lower than their published rates? A. The published rate of the Uranium Steamship Line, for instance, if that is the line you have reference to.

Q. Just answer my question; did you reduce it below the published rate of the Uranium Steamship Company? A. No.

2174

Q. Never did? A. No.

Q. There is no mistake about that (handing witness Government's Exhibit 84) being one of your circulars, Mr. Lederer? A. No.

Q. No mistake about the rate you advertised there being \$24, is there? A. No.

Q. And if at that time the published rate of the Uranium Line was \$26, then your statement would be an error, would it not? A. Yes.

Q. There was some question arose, I think by Senator Spooner, in regard to certain of these exhibits, for instance, Exhibit 85; was that a regular advertisement issued by your line as to the rates on the Graf Waldersee? A. Not a regular advertisement, no.

2175

Q. Was it an advertisement which was issued by your line? A. A special circular and postal card.

Q. Sent out to the public or your agents? A. To agents, apparently.

Q. And for the sale of tickets, to inform them as to prices at which they should sell tickets on your line? A. For a certain steamer and day.

Mr. Spooner: That was admitted to be true, wasn't it?

The Witness: Contains all rates, first cabin, second cabin, third cabin and steerage.

*Emil Lederer*

2176

Mr. Spooner: They admitted they issued it, but they claim the steerage was not accurate as applied to particular lines, mentioned in the testimony.

The Witness: A mistake seems to have been made in quoting the steerage rate.

Q. What is the mistake? A. This appears to be a special notice of the sailing of the Graf Waldersee, January 15th, from New York, quoting the rate in the first cabin, second cabin and third cabin, also steerage rate, but the steerage rate is evidently wrong.

2177 Q. What is the error? A. From the circular which you showed me a minute ago, it appears that there is a discrepancy between the two circulars.

Q. When do you fix the rate for your steamers? A. Rates are subject to change.

Q. When do you begin to publish rates for steamers such as the Graf Waldersee, how long before the sailing? A. The rate is changed from time to time.

Q. When do you begin to publish the rate sheet, how long before the sailing of the ship? A. There is a regular published tariff by our company, quoting steerage rates for all steamers. If a change is made, agents are notified of that change by a special circular, until the tariff, regular tariff is reissued, corrected accordingly.

2178

Q. Well, now, do you mean to say that the rate advertised on Government Exhibit 85, does not conform to the general tariff issued by your company for that sailing? A. I stated that inasmuch as the two circulars which you have shown me quote different rates, one of them must be wrong; apparently this (indicating) is wrong.

Q. The second circular, if I may call to your attention, Government's Exhibit 84, refers to reduction of the steerage outward rate. Isn't it a fact that you first advertised the rate of \$35 subsequently announced

the reduction of that rate to \$24? A. The circular which you call the second one, may have been the first one; if you will let me see it.

Q. Just answer that question; is that what may have been the situation? A. This circular does not bear a date, and that one (indicating) does.

Q. Just answer my question. Did you at times reduce the rates, change the rates that had been published? A. Rates are subject to change at any time.

Q. Did you not in fact change the rates on certain steamers? A. Subject to changes at any minute.

Q. Didn't you change them on certain steamers? A. Certainly we did change them. 2180

Q. What is it that makes you think Government's Exhibit 85, which appears to have been sent out by your line for information of agents, was not accurate information at the time it was sent out? A. If you will trust me with the other circular, I will settle that question definitely.

Q. What is it that makes you think that that is not accurate?

Mr. Spooner: The issue of the other circular.

A. It seems you do not want me to bring out facts. If you will show me that other circular, I would settle it absolutely. 2181

Q. Give me your answer, Mr. Lederer? A. I cannot give you any answer to that.

Q. You cannot say what it is that makes you say that was incorrect at the time it was published; there is nothing on the face of it to indicate? A. There are two circulars quoting different rates for one ship. One of these circulars must quote an incorrect rate.

Q. Suppose the rates had been changed; they may be both correct at the time they were issued, might they not? A. No; special circulars quoting different rates.

2182

Q. You never changed the rate of any steamer then?  
A. We changed them lots of times.

Q. Might not two publications, different rates of the same steamer, both be accurate if they were published different times? A. Well, let me see the other circular.

Q. Just answer that question? A. I cannot answer it.

Q. You cannot answer that? A. No.

Q. What is the date of that circular? A. If you want the truth, let me see the two circulars.

2183 Q. Just confine yourself to answering questions?  
A. You don't give me a chance to answer a question.

Q. Confine yourself to answering what questions are asked you. Simply because there is no judge before whom you may be reprimanded, don't take advantage of that fact. What is the date of that circular? A. Apparently there is no date.

Q. Circular 85; have you any means of ascertaining when that was issued? A. I think I have.

Q. What are they? A. I will be able to state when you show me the other circular.

Q. If you see the other circular you will be able to tell when this was issued? A. I think so, yes.

2184 Q. Well, let us see if you can (handing witness the circular)? A. This circular which you called the second circular, was issued January 8th.

Q. When was the other one issued? A. And the second circular which you called the first circular, was printed January 10th; consequently this must be the second circular and your second circular is the first circular.

Q. How do you know that was printed at that date?  
A. Look in the left-hand corner and you will see the date of the printing.

Q. Is that the date when it was issued or the date when the bill sent forth? A. That is the date it was

printed and it was issued after that date, and shows conclusively that the rate printed thereon is wrong, is incorrect.

Q. I show you another circular, Government's Exhibit 87, and ask you whether it is a regularly published circular of your line? A. I can't remember what the rate was two years ago, two years and six months ago on a particular ship and date.

Q. You can't say whether that was regularly issued or not? A. This is not a regular circular; I explained that that was a special notice.

Q. Now, to come back to this Graf Waldersee circular, which you say is the second one, Government's Exhibit 85, as a matter of fact, was not that the third? Wasn't it a fact that you published the regular rate of the Graf Waldersee for \$35, subsequently on January 8th reduced to \$24, and after that when you found that the sailing of the Uranium had been postponed from the 15th to the 18th that you reissued the original rate of \$35; now, isn't that the fact? A. No, you are wrong.

2186

Q. You are positive that is not the fact? A. You are wrong, positively.

Q. What do you take to be the fact? A. Well, I will look it up and give you the records.

Q. How do you account for the issuance of this \$35 after the issuance of the \$24 and coincidental or substantially coincidental with the postponement of the sailing of the Uranium from the date of January 15th? A. Clerical error.

2187

Q. Look at that circular, Government Exhibit No. 87; what have you to say as to that? A. What is the question, Mr. Dorr?

Q. Is that a circular which is issued to your agents for information as to rates? A. It is a postal card.

Q. Correct, so far as you know? A. Yes.

Q. I show you Exhibit No. 89, is that a circular reducing the earlier rate? A. That is a circular quot-



*Emil Lederer*

2188

ing the rate for a different steamer and a different date; that is the second error.

Q. I showed you, I think, Government Exhibit No. 87, look at Government Exhibit No. 90, and I ask whether that is a regularly issued circular by your line to agents? A. A special notice announcing the cabin rates and incidentally of the steerage rates.

Q. Was that a correct statement of the steerage rate? A. I presume so.

2189 Q. And is this Government Exhibit No. 89 a circular reducing that steerage rate? A. A special circular announcing a reduction of the steerage outward rate for the President Grant, scheduled to leave New York February 5th, 1910.

Q. Now, both of those are circulars announcing rates for that ship by your line, are they not? A. Yes.

Q. Both of them were correct at the time they were issued? A. Yes.

Q. Turning again to this circular No. 87, the President Lincoln, as I recall, you were in doubt as to whether that was the correct rate or not; I ask you whether you can state whether that is the correct rate? A. Wrong.

Q. It is an incorrect rate? A. Yes.

2190 Q. What is it that shows you that that was incorrect? A. Let me see that circular, please?

Q. Are you in the habit of issuing incorrect circulars all the time? A. That will happen in the best regulated families.

Q. And true in the same month, or even a month between? A. I have only admitted the clerical error in this one case.

Q. I understood you to admit the clerical error in the case of the Graf Waldersee, or what you state to be a clerical error; do I understand you to say this is also wrong? A. Don't try to juggle the deck of cards here; I can't make head or tail of it.

Q. They are your cards? A. Don't try to juggle them up like that. You speak of a bunch of February 5th and shove over circular of January 29th; I don't know what cards you are speaking about.

Q. You have already spoken of this Exhibit No. 87 and I have asked you whether or not it is— A. You have not asked me in reference to this card before, did you?

Q. Now, Mr. Lederer, I ask you again whether this circular which you have just stated is incorrect is or is not correct? A. Which circular?

Q. Government Exhibit No. 87? A. Do you mean to ask to know whether the steerage rate quoted on this postal card is correct?

2192

Q. Whether the circular is correct; if there is any portion of it which is incorrect call my attention to it? A. I can't state whether the rates in Exhibit No. 87 are correct.

Q. What did you mean when you stated in response to my question that that circular was not correct? A. I didn't refer to this circular.

Q. What circular did you refer to? A. The circular of the Graf Waldersee and to the postal card issued in connection with that sailing.

Q. You cannot tell whether this is correct or not? A. Which one?

2193

Q. Exhibit No. 87? A. Apparently this is correct.

Q. I now show you Exhibit No. 190, and ask whether that circular is not a reduction of the earlier rate, and whether that also is another inaccuracy on your part? A. I have already stated that this is a circular announcing the reduction of the steerage outward of the President Lincoln, scheduled to leave New York for Hamburg, January 29th, to \$22.

Q. That is a reduction from the rate that is in Exhibit No. 87? A. That is a reduction to \$22; what the previous rate was I don't know.

*Emil Lederer*

2194

Q. Doesn't that circular Exhibit No. 87 show you what it was, that it was \$35? A. There may have been changes in the railroad rate between the date of the postal card, apparently issued January 10th, and the special circular announcing the reduction under date of January 24th.

Q. Is there anything to indicate to you that that circular No. 87 is incorrect, or was incorrect at the time it was issued? A. This one? Which one?

Q. Exhibit No. 87? A. I stated before that this circular apparently is correct.

2195

Q. And this, the Government Exhibit No. 190, is, is it not, a reduction either from the rate advertised by the Government Exhibit No. 87, or some intermediate rate between those two? A. Evidently.

Q. I show you Government Exhibit No. 164, under date of January 3rd, 1910, and call your attention to the published steerage rate of \$25 to Rotterdam, and \$28 to Hamburg, and ask whether or not you are still prepared to say that you did not reduce your rate before that published rate of the Uranium? A. I maintain my position.

Q. You did not reduce it below? A. We certainly did not.

2196

Q. What is the published rate to Rotterdam? A. I want to call your attention—

Q. One minute; what is the published rate to Rotterdam? A. I don't know.

Q. You don't know? A. No.

Q. Steerage rate to Rotterdam \$25, and that does not mean published rates? A. That does not mean anything. I wish to state that when the Hamburg Line publishes a rate of \$25 it means what is said, \$25; when the Uranium Line has a rate of \$25 it means nothing, and I will prove it by your own circular.

Q. That is, when you issue a rate of \$35 it means \$35? A. Yes.

Q. Until a fighting ship is put out and then you put it down to \$22? A. It means exactly what each circular calls for. I will prove it by your own circular—

Q. That is not my circular; it is a circular issued under the stress of competition? A. Ninety-five per cent of the passengers that went on that ship didn't know they were going on that ship.

Q. That, of course, you know of your own personal knowledge? A. I am certain of it.

Q. But on this Graf Waldersee your tickets were purchased at the published rate of \$35 and there were also those who purchased tickets at \$24? A. That is not very likely to have been the case.

2198

Q. You advertised tickets for sale for \$35, did you not? A. Passengers generally bought tickets—

Q. Did you not? A. I testified to that before.

Q. You did then advertise a rate of \$35? A. Yes.

Q. And in the ordinary course passengers would have purchased those tickets, would they not? A. If the rate had remained \$35 they would have bought tickets at \$35.

Q. It remained \$35, did it not, until shortly before the sailing of the ship, within a week before the sailing of the ship? A. The exact date is given in our circular.

2199

Q. What date is that? A. You have the circular.

Q. January 28th; that is exactly one week before the sailing of the ship? A. This circular was issued January 28th.

Q. You mean to tell me that you did not sell tickets to passengers more than one week before the sailing of the ship? A. Very rarely that a ticket is sold prior to one week before the sailing; in fact, ninety per cent of the tickets are bought one day before the sailing.

*Emil Lederer*

2200

Q. Have you the records of the purchase of tickets for that steamer? A. I think I can get it for you.

Q. Suppose you produce them tomorrow. It frequently does happen, does it not, however, that the passenger purchases at the higher rate, tickets at the higher rate, which you subsequently reduce, Mr. Lederer? A. Very rarely.

Q. When it does happen what do you do? A. We refund the money.

Q. In all cases? A. Yes.

2201 Q. Irrespective of whether the passenger makes claim or not? A. When it calls for the same destination.

Q. Irrespective of whether the passenger makes the claim or not? A. We refund all differences at the dock prior to the embarkation of passengers.

Q. Irrespective of whether the passenger makes any claim? A. Yes.

Q. Suppose you produce the records of that ship and the refund? A. What kind of record do you want, Mr. Dorr?

Q. I want the record you have of the transactions? A. We have all kinds of records for those ships.

Q. I want the correct one, showing in full? A. Showing what?

2202 Q. The original record is what I want? A. We have only original records here.

Q. Showing the number of tickets you sold at the original rate, the number of tickets sold at the next reduced rate, if there were more than one and the amounts of the refund? A. All right.

Q. And any records that you have which show any extra remuneration which your line received from other lines as to or any compensation for running a reduced rate ship? A. I haven't any such records and I cannot produce them.

*Max Straus*

2203

Q. Well, produce what you have got? A. Then, that is all.

Mr. Spooner: I reserve the right to recall the witness.

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MAX STRAUS, sworn on behalf of the Government, testified as follows:

*Direct-examination by Mr. Dorr:*

Q. Mr. Straus, what is your business? A. I am a member of the firm of E. A. Johnson & Company, general passenger agents, of the Russian-American Line. 2204

Q. Are you a defendant of this proceeding? A. I am subpoenaed.

Q. Are you a defendant in this proceeding? A. I don't know that I am.

Q. Are you a defendant in this case? A. I suppose I am.

Q. How long have you been in the steamship business? A. With the Russian-American Line?

Q. How long have you been in the steamship business? A. Oh, I have been in the steamship business for about twenty-five years. 2205

Q. What lines have you been with during that time? A. The Scandinavia-American Line and Russian-American Line.

Q. Between what ports does the Scandinavian-American Line ply? A. Christiansand, Christiana and Copenhagen.

Q. Those are the only ports between which vessels of that line ply? A. Yes.

Q. How long has that line been in existence? A. I believe for about twenty-five years.

2206

*Max Straus*

Q. Is it a member of the North-Atlantic Conference? A. I don't think so.

Q. Continental Conference? A. No, sir.

Q. Of any conference? A. No, sir, except in New York, if that is what you mean.

Q. Is it a member of the North-Atlantic Conference? A. Oh, yes.

Q. Is it? A. Yes, New York.

Q. How long has it been a member of the North Atlantic conference? A. Ever since it is in existence.

2207

Q. Ever since the conference is in existence or the line is in existence? A. The line.

Q. Has it at any time ceased to be a member of the conference? A. No.

Q. Has it been engaged in the steerage traffic? A. Yes.

Q. The North-Atlantic steerage traffic? A. Yes, sir.

Q. How many ships has it? A. At present we have four steamers in that particular trade.

Q. Do you know whether your line is a party to an agreement with which the amount of the steerage traffic is regulated? A. No, sir.

2208

Q. You don't know? A. I don't know anything about it.

Q. What is your information on the subject, derived from officers and agents of the line? A. We have no information on that subject whatsoever.

Mr. Spooner: When you say your line, you refer to the Scandinavian Line?

The Witness: Yes, sir.

Q. You have no information whatever upon that point? A. No, sir.

Q. Have you at any time represented a non-conference line? A. Yes.

Q. What non-conference line was that? A. The Russian-American Line, Russian East Asiatic Steamship Company, Ltd.

Q. You represented both lines at the same time? A. Yes, sir.

Q. Do you recall the time when the—is the Russian-American Line a member of the conference? A. No, sir; we were not a member of the conference when they started in.

Q. You were not a member? A. We were not; we applied.

Q. When did the Russian-American Line start in business? A. About five years ago.

2210

Q. In 1907? A. Yes.

Q. At that time, what ships did you have? A. We had, I think, three or four steamers.

Q. What were they? A. One of them was called the "Estonia," "Artania," "Lituania," "Birma."

Q. Were those the only steamships that your line operated at that time? A. And the "Courier."

Q. Those were the only steamers that your line operated at that time, in 1907 or 1906? A. That is right, between New York and Libau, in 1907.

Q. When did you begin operating these steamers? A. I couldn't give you the exact dates; I think it was in April.

2211

Q. April, 1907? A. I think so.

Q. Were any of these steamers operated in that trade prior to that time? A. Not that I know of.

Q. What trade had they been operated in? A. In the Far East; in the Vladivostock trade.

Q. And all of them had been operated by your line in that Vladivostock trade? A. That I couldn't tell, because I don't know.

Q. What is your information? A. I haven't any information on that subject.



*Max Straus*

2212

Q. Did you become a member of the Continental Conference shortly after the institution of this line?

Mr. Spooner: Objected to as immaterial and irrelevant, and not within the issues.

A. I believe about ten or eleven months after they started in, we applied immediately and were admitted to the conference.

Q. That would be in 1908, would it not? A. I think so.

Q. You were not a member of the conference prior to 1908? A. Not for the Russian-American Line.

2213

Q. Are you quite clear about that? A. Quite clear.

Mr. Spooner: What do you mean by a conference, Mr. Dorr?

Mr. Dorr: The Continental Conference.

Mr. Beers: The agreement "AA"?

Mr. Dorr: What I mean is that group of lines who were trading together known under some agreements, formal or informal, as the Continental Conference.

Mr. Beers: But the agreement "AA" makes certain provisions for the lines being called a conference, and you have also referred to this New York Conference and the Continental Conference and the North Atlantic Conference.

2214

Mr. Dorr: My information was that prior to 1908 there were two, more or less, independent conferences, the North Atlantic and the Continental Conferences, each of which had related agreements, and in 1908 the two conferences were consolidated informally, if not formally, into the American Atlantic, and all the lines which were parties to the two conferences became parties to that agreement "AA." That is just my understanding of it.

Mr. Beers: But you are not now speaking of the arrangement in New York?

Mr. Dorr: You mean the "AA" agreement?

Mr. Beers: When you used the expression "conference" you did not mean this New York Conference, dealing with the local lines here, with the agents of the railroads?

Mr. Dorr: I am not; not exclusively.

Witness: Excuse me; my answer only referred to the New York conferences because I know nothing else of any other conference.

Q. Isn't it a fact that your line has been a member of the Continental Conference down to about December, 1907, and that then it ceased to be? A. Not that I know of, and I certainly would know it if they were members of the conference while we were passenger agents and agents of the company. 2216

Q. Between what points did the Russian-American Line run? A. New York, Rotterdam, Libau.

Q. Do you recall whether or not the steamship conference lines reduced their rates on or about the sailing dates of the ships of the Russian-American Line in 1908, prior to the summer thereof? A. I might not know the exact date, but the conference lines had reduced their rates against the Russian-American Line; what particular date I could not tell you, except you give me some circular to refer to. 2217

Q. Do you recall the date when you joined or rejoined, as the fact may be, the Continental Conference; does this refresh your recollection, if you do not (handing witness paper)? A. Yes, I do recall that.

Q. That was September, 1908, was it not? A. Yes.

Q. I notice that you testify positively that was the first time your line belonged to the conference? A. Yes.

*Max Straus*

2218

Q. I now call your attention to Government Exhibit No. 141? A. We were not agents of the Russian-American Line; this is December 27, 1906?

Q. Yes? A. We were not agents of the Russian-American Line or the Russian East Asiatic Steamship Company, Ltd., at that time, and therefore I know nothing of it.

Q. Yes, but I understood you to testify, Mr. Straus, that you became agent when this line was instituted and that the ships which were in that line had prior to that time been engaged in the East Asiatic trade?

2219 A. Yes, but I know nothing about this at all, because this is long before the Russian-American Line, and you are speaking of the Russian East Asiatic Line, Ltd.

Q. By whom are the steamers of the Russian-American Line owned? A. They are owned by Russian capital on the other side.

Q. By the Russian East Asiatic Steamship Company, Ltd.? A. That I couldn't tell you.

Q. Is there any corporation known as the Russian-American Line? A. Yes.

Q. When was that formed? A. I couldn't give you the exact date of that. I think I file a report here at Washington each year, which gives it.

2220 Q. Was that prior to the time you became agent or afterwards? A. I don't think the Russian-American Line was formed prior to the time we became agents; about the Russian East Asiatic Line prior to that I know nothing.

Q. What were the ships of the Russian East Asiatic Steamship Company? A. Prior?

Q. In 1907 or 1906? A. In 1906 I don't know anything about those steamers.

Q. You were a steamship man at the time? A. Yes.

Q. And the agent of the Scandinavian Line? A. Yes, but not interested in that.

Q. And you have no information as to what steamers were operated by the Russian East Asiatic Steamship Company, Ltd.? A. Not interested in them at all.

Q. I call your attention to this answer which purports to be the answer of the Russian East Asiatic Steamship Company, Ltd., Alexander E. Johnson & Max Straus? A. Well, the Russian-American Line is a line supposed to be owned by the Russian East Asiatic Company, Ltd.

Q. I understood you to say you didn't know who owned it? A. I don't know who owns the line, no, sir.

2222

Q. You verified this answer, did you not? A. I suppose I verified an answer, to the best of my knowledge and belief.

Q. This answer admits, does it not, the Russian East Asiatic Steamship Company, Ltd., is operated in competition between Libau and New York? A. Yes, but the name of the line we represented is the Russian-American Line and the Russian East Asiatic Steamship Company, Ltd.

Q. In other words, that is simply a subsidiary of the Russian East Asiatic Company, Limited? A. I wouldn't wonder.

Q. When you speak of becoming a member of the Conference, the Russian East Asiatic Company, Limited, became a member of the Conference, didn't it? A. I wouldn't say that; I wouldn't like to say that because I don't know.

2223

Q. Here is a circular dated September 1, 1906, which states that the Russian American Line (the Russian East Asiatic Steamship Company, Limited), was a member of the Conference, is that correct? A. That is correct.

Q. That it is a fact, is it not, that the Russian East Asiatic Company, Limited, rejoined the Conference?

2224

A. Well, you can put it any way you like, but I don't know anything about the Russian East Asiatic prior to the time I was agent of the company.

Q. Have you any question that these earlier circulars of the Continental Conference are accurate, the circular of December 27, 1906, Government Exhibit No. 140, which states that agents are advised that the "Russian East Asiatic Steamship Company, Limited, has this day resigned Conference membership"?

A. It might be accurate and it might not, but I really know nothing about it.

2225

Q. But it is the same steamship company that you now represent, is it not? A. The Russian East Asiatic Steamship Company, Limited, is the company that we represent.

Q. And yet, when you became its agents, it was not a member of the Conference? A. It was not.

Q. And from that time until it did become a member of the Conference, you met with the opposition of the Conference Lines which were sailing at reduced rates? A. Yes.

Q. At or about your sailing dates? A. Yes.

Q. Do you recall when this opposition ceased?

A. I think it ceased in September, when I joined the Conference in New York.

2226

Q. What was the arrangement which the members of your company had with the other lines which were members of the Conference as to steerage transportation or transportation of steerage passengers? A. The arrangement we had is simply to live up to the rules and regulations of Conference in regulating agencies.

Q. Do you mean to say that there is no agreement by which the Russian East Asiatic Steamship Company, Limited, secured a certain pro rata share of the steerage passenger business of the North Atlantic?

A. No, sir; all I know is that we pay a pro rata to the Conference in order to maintain it.

Q. You pay a pro rata share? A. Yes.

Q. State just what you mean? A. For instance, it takes probably fifteen or twenty thousand dollars a year to run a Conference and our share is probably five hundred dollars or six hundred dollars a year; we pay our share towards the payment of Sandford's salary, or the official salaries of those there.

Q. Do you mean to say there is no agreement between the Russian East Asiatic Steamship Company, Limited; no agreement since September, 1908, by which the Russian East Asiatic Company, Limited, is allowed a certain pro rata share of the steerage passenger business of the North Atlantic? A. What they are allowed I don't know; they may be allowed a percentage, but what that percentage is, I don't know anything about it. 2228

Q. What is your best information; that they are allowed a percentage, is it not? A. I believe they are.

Q. What are the sources of that belief or that information? A. I suppose one has to have a certain amount of imagination. They know there must be some percentage, but what that percentage is, I don't know.

Mr. Spooner: You cannot imagine?

Witness: No, I can imagine lots of things. 2229

Q. Have you had any— A. I don't know that there is any percentage; I don't talk of it.

Q. What are the sources of your knowledge about the matter? A. Conversations, possibly.

Q. With whom? A. I don't remember with whom.

Q. With representatives of your line? A. Not our line, no, sir.

Q. Have you ever had any conversation with any representatives of your line? A. Yes.

Q. Who are the officers of your line? A. The president of our line is M. Bonasobsky.

2230

*Max Straus*

Q. Are there any officers in this country? A. No, sir.

Q. You have been on the other side in Conference with them? A. No, sir.

Q. Never? A. No, sir.

Q. Have any of them been here? A. Yes, one of the members of the company was here about a year or so ago.

Q. Did you learn from him anything about the relation of your line to the other lines? A. I never discussed the question with him.

2231

Q. Is your firm the agent of the Russian East Asiatic Steamship Company, Limited, in this country? A. Yes, we are the passenger agents only.

Q. Who are the freight agents? A. Messrs. Benham & Boyesen.

Q. Are you the general agents? A. We are the general passenger agents; Benham & Boyesen are the general agents.

Q. The corporation which you represent has received a subpoena calling for certain agreements? A. Yes.

Q. What efforts have your corporation made to comply with that subpoena? A. We have no agreements of any kind in our possession.

2232

Q. Your corporation has no agreements of any kind in its possession? A. You mean A. E. Johnson & Company?

Q. No, the Russian East Asiatic Steamship Company? A. You have got everything that I have got.

Q. I am not asking you about what you have; I am talking about what your corporation has, of which you are agent? A. The Russian-American Line?

Q. The Russian East Asiatic Steamship Company?

Mr. Bullowa: These are in Europe.

Mr. Dorr: The Russian East Asiatic Company which has appeared in this case.

Witness: We have no agreements—

Mr. Bullowa: We have no agreements.

Q. What steps has your corporation taken to ascertain whether it has these papers in its possession in places other than New York? A. Mr. Bullowa represents the corporation; I don't.

Q. You are the agent of the corporation, are you not? A. Yes, sir; I am general passenger agent.

Q. Well, what steps has the corporation taken so far as you know to comply with the subpoena? A. I believe they have given Mr. Bullowa what they had.

2234

Q. Did you communicate with the home office? A. Yes.

Q. And asked for the various agreements which the subpoena called for? A. Yes, and I understood they communicated with Mr. Bullowa.

Q. Have you a copy of the letter which was sent to the home office? A. I think I can produce it.

Q. In regard to the obedience of that subpoena? A. I think I can produce that.

Q. If you will. Have you had any reply from the corporation? A. Except I had a reply the other day by telephone from someone.

Q. I understood you to say there were no officers of the corporation in this country? A. It was not an officer of the corporation; it was someone who had a right to reply.

2235

Q. Who was that person? A. Must I answer it?

Q. Yes? A. Mr. Bullowa.

Q. Is he an officer of the company? A. Yes, he is their attorney.

Q. And you had no reply from the corporation itself? A. I think they replied something of this kind, that everything will be arranged through Mr. Bullowa.



*Max Straus*

2236

Q. Have you got the letter? A. I think I can find that letter.

Q. If you will produce that. Your office has kept the records of the passenger transactions of this line?

A. Yes.

Q. The records will show the dates of sailing?

A. Yes.

Q. And the rates charged? A. Yes.

Q. And the rates published? A. Yes.

Q. Your corporation were, I think, served with a subpoena for the production of various circulars showing the published rates? A. I delivered—

2237

Q. You delivered, did you not, various circulars from 1911 and thereafter, and 1912; where are your earlier circulars? A. I think I explained to you that they were destroyed or thrown in the waste basket prior to receiving notice from you.

Q. You have, however, records which do in fact show the rates you charged for the various ships of your line prior to that time, have you not? A. I don't know; I couldn't say that exactly.

Q. Don't you keep records? A. We keep records, but I don't know whether I have got those.

Q. What tickets you sold, and on what ships and what price? A. We have a record that shows these things, but I don't think they go so far back.

2238

Q. What did you do with the old records? A. They have been of no material use any more and they may have been destroyed, but if found, I would be glad to deliver them to you.

Q. Suppose you look those records, Mr. Straus, and produce them? A. All right, sir.

Q. You had from time to time, certain correspondence, did you not, with your company? A. Yes.

Q. And correspondence relative to the opposition steamers put on against your line? A. I think so.

Q. And as to what measures should be taken, le-

gally or otherwise, to meet that opposition? A. I don't remember that exactly, legal or otherwise.

Q. You had correspondence about the opposition steamers, did you not? A. Yes.

Q. Where is that correspondence? A. I think you will find everything there.

Q. Have you produced it? A. Mr. Bullowa has everything.

Q. Will you produce it now? A. Yes.

Mr. Bullowa: Do you want everything we have got?

Mr. Dorr: Documents pertaining to this very subject. 2240

Mr. Bullowa: I think you ought to specify them.

Q. Have you got them, Mr. Straus? A. Yes, Mr. Bullowa has all I have got.

Q. Do you produce them? A. Yes, you can have everything I have got.

Mr. Bullowa: (Produced papers.) Have them all marked for identification.

Mr. Dorr: I ask to have marked for identification correspondence and papers relating to opposition steamers and the relations of the Russian East Asiatic Steamship Company, Limited, with the Conference, produced in obedience to subpoena. 2241

Marked Petitioner's Exhibit 208 for identification.

Q. Prior to the re-admission of the Russian East Asiatic Steamship Company, Limited, to the Conference—

Mr. Bullowa: Why do you say the re-admission?

*Max Straus*

2242

Mr. Dorr: The evidence is not in, but I presume the Russian East Asiatic Company—

The Witness: I don't think you should qualify me as to that. I will give you any information I really know anything about, but I don't want to guess at it.

Q. Fortunately we have very definite information that your line formerly was a member of the Conference and I am asking you whether it is true? A. What's the use of asking me about them?

2243 Q. Prior to the re-admission of the Russian East Asiatic Steamship Company, Limited, to the Conference, had you conferred with the representatives of any independent line as to measures to be taken to meet the opposition of the Conference Lines? A. If you will leave out the word re-admission, I would rather you leave it out.

Q. Unfortunately we cannot; I have to frame the question on the evidence as it stands, Mr. Straus?

Mr. Beecher: Why don't you say prior to 1906?

A. I will answer the question that I had conferred with other outside lines.

2244 Q. With whom did you confer? A. I conferred with the representative of the Russian Volunteer Fleet.

Q. Who was that? A. Mr. Oscar Richard, member of the firm of C. B. Richard & Company.

Q. What measures did you take in regard to the matter? A. We fought back as hard as we could.

Q. Did you employ counsel in the matter? A. I did not.

Q. Mr. Bullowa was not counsel for your line at that time? A. He was counsel, but he was not employed for that purpose.

Q. What further measures did you take? A. Oh, we were willing to fight it out; we didn't care; we

knew very well that we would win and get in; we were coming direct from Libau to New York, the only Russian Line that was coming here, and it was only a question of time that we knew we would be admitted into the Conference.

Q. That is, you felt confident you could force the Conference Lines to admit you? A. We didn't have to force at all; there was no forcing; we were glad to get in.

Q. You were a party to the arrangement on the other side by which you were finally admitted to the Conference? A. The company might have been.

Q. Were you? A. Me?

Q. Yes? A. No, not me personally; my company might have.

Q. But you can state positively that there was no forcing on the part of your superiors on the other side of the water? A. Oh, they didn't force us at all.

Q. You were thoroughly familiar with the negotiations? A. I didn't know anything about the negotiations.

Q. How did you know they attempted to force their way in or not? A. Because I know enough about the business to know it would be unnecessary to force anybody.

Q. How long did you remain agents for the Russian East Asiatic Steamship Company, Limited, after you first became agents for that line? A. How long did we remain agents after we became agents?

Q. Yes? A. We are still agents of the Russian East Asiatic Line.

Q. There has not been any break in that relationship? A. None whatsoever.

Q. Do you recall whether or not prior to September, 1908, you represented lines other than the Russian American Line and the Scandinavian Line? A. We

*Max Straus*

2248

represented the Scandinavian-American Line prior, and do represent them now.

Q. Did you sell tickets for any other line other than the Russian-American and the Scandinavian Line? A. Yes, we were sub-agents for all the Conference Lines.

Q. Did you sell tickets for any lines that were not Conference Lines other than the Russian East Asiatic Steamship Company, Limited? A. No, I don't think we did.

2249 Q. But you did sell them for the Russian East Asiatic Steamship Company, Limited? A. Yes.

Q. And also for the Conference Lines? A. Yes.

Q. Was there any objection made to your so doing on the ground of Rule 9? A. There might have been objection, but somehow or other we might have had a lot of friends at Court.

Q. It was contrary to the rule of the conference was it not? A. I wouldn't wonder if it was contrary.

Q. Now, as a matter of fact, did your line on the other side have a certain understanding with the Holland-American Line? A. About what?

2250 Q. As to this very matter of observance of Rule Number 9? A. That was simply a matter here between the New York Conference and ourselves, that is all.

Q. Now, Mr. Straus, did you communicate to the Russian East Asiatic Steamship Company, Limited, the corporation of which you are the agent, that the Government was subpoenaing—had subpoenaed—an agreement or copy of agreement by which it became a party to the so-called Agreement "AA"? A. I believe Mr. Bullowa did; I don't know whether I did or not.

Q. The corporation has not produced such a supplemental agreement? A. I don't know; I think Mr. Bullowa might have it; I haven't.

Q. You are the agent of the line here, are you not?  
A. I am general passenger agent.

Q. Does the corporation produce the supplemental agreement? A. I don't know anything about the supplementary agreement or any agreement, and I am sure if there is such an agreement in existence Mr. Bullowa has it or ought to have it.

Q. Yes, but the process is directed towards the corporation, and as I understand it you are their general passenger agent and representative in this country? A. That is correct.

Q. Does the corporation produce that agreement or not; if not do you desire to state any reason why it has failed to do so? A. I received a telephone message as I told you from Mr. Bullowa in reference to this matter which might clear the situation. If you wish—I had my stenographer make a memorandum of it. 2252

Q. Do you desire further time for your corporation to produce this document?

Mr. Bullowa: Mr. Dorr, as a matter of self-evident thing you served a subpoena on the 12th of June and it takes at least twelve days to go to Libau; we couldn't possibly have produced it by this time. 2253

Q. I am asking Mr. Straus whether he desires to have further time? A. Yes, sir.

Q. You have taken steps to notify the corporation that that document has been required, the corporation did you? A. We went so far as receiving no answer cabled, and they informed Mr. Bullowa that they never received his letters on that subject; it had been mislaid or misdirected.

Q. Then you anticipate that the corporation will be in a position to produce those documents at a subsequent hearing? A. I am quite certain of it.

2254

*Max Straus*

Q. There is no disposition on the part of the corporation to do otherwise than to produce it? A. No, sir.

Q. Well then, if you will take such steps as you can to expedite its production? A. We will.

*CROSS-EXAMINATION by Mr. Bullock:*

2255

Q. As I understand the Russian East Asiatic Steamship Company, Limited, were doing business in this country before you represented them, prior to your becoming the agents for them? A. Yes, I believe they were doing business prior.

Q. When you represented it you thought it advisable, rather than have the name Russian East Asiatic Steamship Company, Limited, you called it the Russian-American Line? A. Yes.

Q. And the Russian-American Line is simply a trade name? A. I believe so.

Q. In 1908 you were informed, I understand, by cable that you were admitted to a conference? A. Yes, sir.

Q. You don't know anything about the terms of that agreement? A. No, sir.

2256

Q. You have never been informed? A. Never was informed.

Q. You don't know anything that transpired in Europe? A. No, sir.

Q. Since that time I assume you have been informed that you are out of the conference? A. Yes, sir.

Q. I understand your information was that some time in September you entered the conference and got out of it some time in February, 1911? A. I received that information from you.

Q. While you were out of the conference prior to 1908, did you have any difficulty in getting passen-

gers? A. Certainly, we had difficulty, it was not such an easy matter.

Q. Did you get your full share? A. We never get the full share, you know.

Q. You always want more? A. We always want a little more.

Q. Now Mr. Straus, you know that prior to the agreement so-called "AA" by the District Attorney, what was the method in which steamship agents did business with the different steamship companies? A. Prior to that? Of course you mean prior to the Conference?

Q. Yes? A. The Conference has been in existence many years.

Q. Well, prior to that? A. And sometimes the Conference would disband due to some misunderstanding between the different lines, then everybody goes out and pays as high as they can, \$2 commission, \$3 commission, \$4 commission, \$5 commission, if necessary, and reduces the rates cut the rates as low as \$10 to Hamburg; I have seen it—I have reason to say that I know of the rates being as low as \$6 to Hamburg net, and \$1 to Chicago by the Pennsylvania Railroad, so the passenger could go from Hamburg—

2258

Mr. Dorr: Object to that as not responsive.

Mr. Beers: He is answering it.

2259

The Witness: A party could go from Hamburg to Chicago—

Mr. Dorr: It is not cross-examination.

A. (Continuing.) Go from Hamburg to Chicago for \$7. The Pennsylvania Railroad would take \$1, the Hamburg Line would take \$6.

Mr. Spooner: How much profit was there in that?

The Witness: I suppose there was \$7 profit.



*Max Straus*

2260

A. (Continuing.) There was no profit.

Mr. Beers: Do you desire to strike out the answer of the \$7 profit?

The Witness: Yes, sir.

Mr. Dorr: Let it stand.

The Witness: In fact there was a loss I believe to all of us.

Q. Well, what was the object of these steamship lines getting together?

Mr. Dorr: I object; the witness has not testified to anything like that on direct.

2261

Q. What was the result of this competition which reduced the rate to \$7 to New York?

Mr. Dorr: I object, the witness is not properly qualified as such and not relevant to anything on direct.

A. Well, naturally, that would be the cause of bringing people together; instead of losing money, building ships, if you have an interest in your stockholders, you naturally have to get together and raise your rates to such a point where you can make money; or some lines would have to drop, the weaker ones would have to drop out of the game.

2262

Q. Have you always been agent for some of the railroad companies? A. Yes.

Q. Which lines? A. I represented as general agent up to March 1st, the Lackawanna Railroad, the Lehigh Valley Railroad; prior to that I represented the West Shore Railroad under Mr. Charles E. Lambert; prior to that I was passenger agent of the New York Central.

Q. Prior to the Russian East Asiatic Steamship Company, Limited, entering the Conference in 1908, did you receive the commercial allowance from the railroads? A. Yes.

Q. Although you were not a member of any agreement at that time? A. I believe we received the commercial allowance up to Chicago and beyond Chicago, in a great many instances we received more than the Conference lines received.

Q. You are sure of that? A. I am quite positive.

Q. So that the agreement between the Conference Lines and the railroads did not injure your competition? A. It benefited it in certain districts and territories.

Mr. Burlingham: In response to the request of the District Attorney made on Thursday, the 27th, ultimo, I produce from the office of the Conference in New York, reports of the Trans-Atlantic Passenger meetings for the years 1899 to 1905 inclusive. 2264

Marked respectively Exhibits 209, 210, 211, 212, 213, 214 and 215, for identification.

I also produce minutes of the Standing Complaint Committee of the Continental Conference, No. 145, January 17th, 1907, to No. 166, May 12th, 1908, which according to my information was the last meeting of this committee ever held.

Marked Exhibit No. 216 for identification. 2265

I also produce circulars of the North Atlantic Passenger Conference Circular No. 1, Rules and Regulations of the Conference, relating to steerage passengers to all agents, dated New York, July 20th, 1906.

Marked Petitioner's Exhibit No. 217 for identification.

I also produce Circular No. 3, of the North Atlantic Passenger Conference, to all agents, dated New York, May 1, 1906.

Marked Petitioner's Exhibit 218 for identification.

2266

I also produce Circular No. 4, of the North Atlantic Passenger Conference, dated April 17th, 1907, advising that the Donaldson Line of Montreal, had become a member of the North Atlantic Conference.

Marked Petitioner's Exhibit No. 219 for identification.

I also produce circular No. 5 of the North Atlantic Passenger Conference, dated May 6th, 1908, instructing agents not to book via Genoa or Naples third class passengers destined to Continental points.

Marked Petitioner's Exhibit No. 220, for identification.

2267

I also produce circular No. 6 of the North Atlantic Passenger Conference dated September 2nd, 1909, advising agents that the Canadian Northern Steamship, Limited, had become a member of the North Atlantic Passenger Conference.

Marked Petitioner's Exhibit No. 221 for identification.

I also produce circulars Numbers 1 to 21, third series, of the Continental Conference, ranging from April 14th, 1887, to February 9th, 1909.

2258

Marked Petitioner's Exhibit No. 222 for identification.

I also produce minutes of meeting of the North Atlantic Passenger Conference held in New York, April 23rd, 1896.

Marked Petitioner's Exhibit No. 223 for identification.

I also produce correspondence between the American Atlantic Conference or Lawson Sandford and H. A. Eschenburg, H. C. Clausenius & Company of Chicago in relation to

matter of Zinner, Bock & Company of Chicago, 2269  
the letters being dated March 11th, 1909, to  
May 1, 1909.

Marked Petitioner's Exhibit No. 224 for  
identification.

The secretary of the conference informs  
me that he has made a careful search and finds  
no copies of any of the minutes of meetings  
held in Europe by the Atlantic, Continental or  
Mediterranean Conference during the years  
1907, 1908 and 1909; further that he has  
made a careful search and finds no copy of  
any agreement between the Russian-American  
Line and the Atlantic Conference admitting the  
Russian-American Line as a member, dated 2270  
about September 1, 1908.

Further that he has made a careful search  
and can find no copies of minutes of meetings  
of March or May 25th, 1908, of defendant  
lines held in London.

Adjourned until July 2nd, 1912, at 10:30 o'clock  
A. M.

2272

*Max Straus*

## UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,  
 Petitioner,  
 against

HAMBURG-AMERIKANISCHE PAC-  
 KETFAHRT - ACTIEN - GESELL-  
 SCHAFT, and others,  
 Defendants.

2273

Before: Charles E. Pickett, Esq., Examiner.

New York, July 2nd, 1912.

Hearing resumed pursuant to adjournment.

Appearances:

Henry A. Wise, Esq., Goldthwaite H. Dorr, Esq.,  
 Henry A. Guiler, Esq., John S. Bradley, Esq., for the  
 petitioner.

2274

Messrs. Burlingham, Montgomery & Beecher, by  
 Charles C. Burlingham, Esq., and Norman B. Beecher,  
 Esq., for the Anchor Line, Ltd., *et al.*

Messrs. Choate & Larocque by Nelson Shipman,  
 Esq., for Norddeutscher Lloyd, *et al.*

Messrs. Spooner & Cotton, by J. C. Spooner, Esq.,  
 for The Allan Line, *et al.*

Messrs. Lord, Day & Lord, by Lucius H. Beers,  
 Esq., and Allan B. A. Bradley, Esq., for The Cunard  
 Line, *et al.*

Ralph J. M. Bullowa, Esq., and Walter Rogers  
 Deuel, Esq., for Russian East Asiatic Co., *et al.*

*Max Straus*

2275

MAX STRAUS, recalled:

*Cross-examination by Mr. Bullock:*

Q. When you became agent for the Russian East Asiatic Steamship Company, Mr. Straus, they had the Estonia, Lithuania, Korea, Birma and Arconia? A. Yes, sir.

Q. What happened to those steamers? A. They are practically out of the trade. We have other steamers which we have built since then, twin-screw express steamers Russia, Kursk and the steamship Czar.

Q. Does that include the accommodation for the passengers? A. Oh, my, yes; a great deal of difference between accommodations on new steamers built now for the trade and the old antiquated steamers.

2276

Q. Is that one of the results of entering the conference?

Mr. Dorr: I object as calling for a conclusion.

Mr. Bullock: Cross-examination; go ahead and answer the question, Mr. Straus.

A. I should not wonder.

Q. What other class of passengers does your line bring over? A. From the other side?

Q. Yes? A. Fifty per cent, we might say forty per cent of the class of travel that we bring from Russia to America, are Hebrews and sixty per cent are gentiles if that is what you mean.

2277

Q. Yes; now in connection with bringing the passengers, are there any Russian regulations regarding passports? A. Oh, yes.

Q. What are those regulations? A. The passengers coming from Russia to America going with our line, each and every passenger must have a passport.

Q. That the Russian subject comes through Germany on the same passport requirement? A. Yes, sir.

*Max Straus*

2278

Q. They have to have the same? A. Yes, but a great many go over the border line without a passport.

Q. They cannot go on the steamer without a passport? A. They must have a passport. The only way to receive a passport, the police department of Russia must have nothing against the person before they can get a paper, which will give them the privilege to go to America, showing that their records must be entirely clear; otherwise they would be refused.

Q. Now while you were out of the conference, prior to 1908, I assume you were fighting with all the lines and with every one? A. Oh, yes, that was natural.

2279

Q. That lasted I assume up to about September, 1908? A. Yes, sir.

Q. And it began when you became agent for the line? A. You mean the fight?

Q. The fight? A. Yes, sir.

Q. Now was that demoralizing the agents? A. Well, it was to a certain extent.

Q. I suppose you were trying to subdue conference agents? A. I think we did subdue them. We would offer conference agents if possible more commission than we would give our own agents, in order to induce them to put some of their business over our line.

2280

Q. Do I understand correctly that these conference agents represented all lines? A. Conference agents generally represented all the lines.

Q. They were not allowed to recommend any one line, were they? A. If a purchaser goes before a conference agent to purchase a ticket if it is a respectable decent conference agent, which the most of them are, he will not suggest a line to the purchaser, but will allow the purchaser to select his own steamer and line.

Q. That is he cannot be an advocate of one line? A. He cannot put one steamer against another and say this is a better boat, that is a better boat; he must permit the purchaser to select.

Q. That is the idea of the conference agent? A. That is the idea of the conference agent. If he does not do that, he is liable to disqualification or fine.

Q. The idea of the conference is to build up in the form of agents, ticket offices throughout the country, joint ticket offices? A. Something of that kind, yes, sir.

Q. Now, prior to this idea was the demoralization among the agents? A. Yes, sir.

Q. Describe it? A. Well, passengers could buy tickets at almost any price. Some agents received \$2 commission, some received \$3; some received \$4. No particular restriction whether the agent would give the passenger part of the commission or not. We did not care. What we wanted was heads that is all, regardless of revenue.

2282

Q. Well, did you have runners? A. Broadway was full of runners the depots were full of runners.

By Mr. Spooner:

Q. At what time? A. In 1907, six and seven. A runner could get just as much commission as the ticket agents in any of the offices.

By Mr. Bullock:

Q. What were these runners supposed to do? A. Oh, they were sort of body snatchers.

2283

By Mr. Spooner:

Q. Ran people aboard your ship? A. Ran them into the office and booked them.

By Mr. Bullock:

Q. Well, was it the same condition that existed with the railroads prior to the railroad association? A. Yes, sir; before the Western Passenger Association was established or arrangements made with the steam-



*Max Straus*

2284

ship companies, the commissions were so high, the demoralization was so great that if you sold a ticket to an emigrant to any person to Minnesota, you received as high as \$6 to \$7 commission on a rate where the western lines received only \$11.50; they paid from \$6 to \$7 commission on that ticket. The commission on a ticket from New York to Colorado, Wyoming, Utah, was as high as \$10 and \$12. I have paid as high as \$17 myself commission on a San Francisco ticket when I was in the railroad office, in connection with the steamship business.

2285

Q. Was that what made the railroads agree on having the office below Rector Street? A. That was not the reason.

Mr. Dorr: I object to that.

Q. Is there an agreement regarding the dead line? A. Yes, sir, there is a presidents' agreement.

Q. What was the reason for that agreement? A. Demoralization of the immigrant rates by the immigrant agencies as I understand; the presidents of the different railroads decided there should be no railroad office south of Rector Street.

2286

Q. Well now, with your experience, in and out of the conference, are the conference regulations as far as you know them reasonable?

Mr. Dorr: I object to that.

A. Very reasonable.

Q. Are they necessary and essential for the preservation of reasonable rates and regulations for the steamship passenger business? A. The conference does not make rates; they simply regulate the agent in New York.

Q. You are talking of the New York regulations?

A. Yes, sir, I know nothing of the other side.

Q. New York conference? A. Yes, sir.

Q. You are not speaking of the "AA" agreement?

A. I am not speaking of the conference on the other side.

Q. You know nothing about that? A. No.

Q. Your idea is that you are instructed to live in harmony with the other companies? A. That's my instructions.

Q. To live in harmony with the different companies that are doing business? A. That our company simply wishes to live in harmony with their competitors.

Q. Without any agreement as far as you know of?

A. Without any agreement as far as I know of now.

2288

Q. And I assume your attitude toward the Uranium Line is that you don't know who the substance is behind the shadow? A. My personal attitude, I received instructions from the other side whenever I make a rate against the Uranium Line.

Q. I assume you understand that the Uranium Line is the Canadian Northern Railroad, as far as your information is?

Mr. Dorr: I object as to whether he has any information.

Mr. Spooner: Everybody else had.

A. I have always so understood.

2289

Q. I suppose from the same information that is had that the Canadian Pacific and Canadian Northern have somewhat of a controversy? A. That I couldn't say just now. I believe the Canadian Lines are in the steamship business as well as in the railroad business, which is different from the Trans-Atlantic Lines. The Canadian Pacific Railway have a Canadian Pacific Steamship Company who competes against all of the New York steamship companies, as well as having their own railroads from Montreal through to the Pacific Coast.

2290

*Max Straus*

Q. I suppose your line is not anxious to enter into a controversy with the railroads or get into the railroad wars, which the railroads are having among themselves? A. No, we do not care to get into any controversy, except tend to our own business.

Q. Now regarding the rates which your line maintains do you consider those reasonable rates? A. Yes, sir.

Q. Are the rates made in accordance with what the traffic will bear or in accordance with what is fair remuneration for the capital and expense.

2291

Mr. Dorr: I object, entirely unqualified.

A. I think our rates are fair; in fact I believe our rates should be higher than some of the other lines.

Q. Why so? A. Because as I said before, we carry quite a number of Hebrews, particularly those of the orthodox religion and they will only eat a certain class of food called kosher. We therefore have on board of our steamers a mash giach, which is a sort of a rabbi. As I said before the mash giach's duty is to look after the food, meats and such things that are aboard, not alone in this country, not alone in Russia, but also here and there are certain slaughterhouses here, such as Schwartzschild, who have this kind of meat, called kosher and that costs from one, two and three cents a pound more than any other kind of meat, because it has to be cured, put in salt twenty-four hours and it wouldn't pay us to have two different kinds of meat on the ship, so we give the benefit of this kosher meat to all of our passengers, and therefore, I think it costs us more than any other line to feed our passengers.

2292

Q. And is your passage from New York longer?

A. Yes, sir, it is longer.

Q. Now when the line first was instituted between New York and Russia, was it the custom to follow

that direct route, or was it accustomed to go by way of other ports? A. The traffic from Russia before our line was established, there was a line in existence called the Russian Volunteer Line. They always carried a number of passengers, not alone from Russia to America but also from America to Russia. In fact the steamers were mostly always full.

Q. Do you know whether they went out of the business?

Mr. Dorr: I object.

A. I think they went out of business, because they did not care to maintain, have an agency here, after going full backwards and forwards, making no money, the rates seemed not to pay them, so they decided to quit the business. That I have from very good authority. 2294

Q. Do you know why they did not make money?

A. Because their rates were low.

Q. Was there internal trouble? A. No, no. You know the Volunteer Line is not a line that you could say they could bust, because it belongs to the Government.

Mr. Dorr: Objected to as not responsive.

A. There were no dividends to pay, no stockholders pay and still they decided of their own accord to go out of business. You could not force them if they did not want to go out. 2295

Q. Were you forced into any conference? A. No, sir.

Q. Was it a voluntary act? A. Yes, sir.

Q. It was your advice as I understand, Mr. Straus, that it would be better to agree regarding control of agents here than to educate an entirely new body of agents? A. The decent respectable agents of the reliable companies the reliable agents were all conference

*Max Straus*

2296

agents and we would like to have the benefit of that particular agency and that is the reason we asked for admission into the conference here.

Q. But you were getting your share of the business?

A. But we had to deal with a very peculiar class of people.

Q. You were taking unwarranted risk? A. We had to, had to take certain risk because some of them were not reliable.

Q. That is financial risk? A. Yes.

Q. You mean as agents? A. As agents.

2297 Q. Unreliable that they would sell tickets and you didn't know whether you would get the proceeds of the tickets in every case? A. We had to chase them pretty hard to get the money.

Q. In some cases you did not get your money? A. In some cases we did not get our money.

Q. Then you can safely state that the Russian Volunteer Fleet was not driven out by reasonable competition? A. I feel quite sure that they were not.

Mr. Dorr: Same objection.

2298 Q. Did you ever hear the witness Fourman tell you that while he represented the North West Transport Line, that he was afraid to turn over the proceeds of prepaid tickets to the North West Transport Line, because of the character of the line? A. Well, I would not put it that way.

Q. Put it in your own way then? A. The reason that C. B. Richard & Company retained the money here for the prepaid tickets, was because they felt in case the line did go out of business that they would have the money here to refund to the purchasers and they would only pay such money to the Company when they forwarded the passenger from the other side.

Q. If they turned it over to the line, they were afraid that they would not secure the money back to

repay to the purchaser? A. They felt responsible, as I understand it.

Q. In case the sailing was not made, in the case the person did not come? A. Yes.

Q. Who told you that? A. Mr. Fourman told me that I believe and I am quite certain Mr. Oscar Richard told me that himself.

Q. Have you ever contributed to the control stations abroad? A. No, sir.

Q. Not necessary for your line to do it? A. We have nothing to do with the control stations.

Q. Your passengers come direct? A. Our passengers come direct. 2300

*CROSS-EXAMINATION by Mr. Spooner:*

Q. I want to ask you one question: If there were no understandings such as is complained of here among the steamship companies that each line was competing with the other line, what would become of your business, your company? A. Be so demoralized I suppose that we would have to seek other channels.

Q. That is, unless there were some understanding or arrangement, you would go out of business? A. Some sort of understanding, as the railroads have had amongst themselves in this country. 2301

By Mr. Bullowa:

Q. You consider that the understanding among the steamship companies is protection to the weaker steamship lines? A. Just as much.

Q. It is mutual protection against the state of absolute unlimited competition? A. Yes.

Q. And in your experience there has been no restraint in competition; the rates have so fallen that none but the strongest would survive.

2302

*Max Straus*

Mr. Dorr: I object to that; the witness is entirely unqualified.

A. The rates will show that.

Q. Your experience has gone back twenty-five years? A. Yes.

Q. And you have lived through several rate wars?

A. I have been through them all.

By Mr. Beers:

2303 Q. Mr. Straus, is the present conference existing between the lines similar in character to the agreement which exists between the railroads in the United States?

Mr. Dorr: Objected to as entirely immaterial and irrelevant.

A. Yes.

Mr. Dorr: The witness is not sufficiently qualified to testify as to what the railroad agreement is.

Q. Have you represented railroads in your business for a considerable period of years? A. Yes.

2304 Q. How many years? A. I could go back twenty-four or twenty-five years. The first railroad we represented was the Northern Pacific, with the land and immigration agents of the Northern Pacific Railroad. Our business was to arrange to put settlers on the line of the Northern Pacific Railroad, particularly Scandinavians.

Q. Have you represented other railroads? A. Yes, sir.

Q. What railroads? A. I represented the New York Central as the passenger agent in New York, some twenty odd years ago, and I represented the West Shore Railroad under Mr. Charles E. Lambert, the general passenger agent.

Q. Any others? A. And I was appointed by Mr. B. D. Caldwell, general agent of the Lackawanna Railroad, up to March 1st of this year and also represented the Lehigh Valley Railroad. I was appointed by Mr. Jarvis, vice-president of the Lehigh Valley Railroad.

Q. Have you also sold tickets over most of the railroads operating west of New York? A. Yes, sir; I have also represented the Western Passenger Association in an advisory capacity for three years in New York.

Q. What is the Western Passenger Association? A. The Western Passenger Association consists of lines west of Chicago.

2306

Q. All the lines? A. All the lines operating West of Chicago.

Q. With what subjects did that association deal? A. With the first, second and third class business; also theatrical business, tourist business, mileage books and things of that kind.

Q. The immigrant business? A. Yes, sir.

Q. Has your business been connected with the railroads for the last twenty-five years? A. Yes, sir.

Q. Continuously? A. Continuously.

Q. Down to the present time? A. Up to March 1st, 1912.

2307

Q. Have you during the past twenty-five years been familiar with the manner in which the business of transporting immigrants in the United States has been transacted on railroads? A. Yes, sir.

Q. Do you know whether or not there has been and is a railway pool among the passenger lines operating west of New York, with respect to carriage of immigrants arriving at the Port of New York?

Mr. Dorr: Objected to as immaterial and irrelevant; it cannot have any bearing on the case.



*Max Straus*

2308

A. You mean railroads west of New York?

Q. A government pool? A. West of New York?

Q. West of New York? A. There is a division of seven trunk lines which start from the port of New York west, and either under an agreement reached either February 1st or March 1st of this year, each trunk line receives an equal share.

Mr. Dorr: Is that agreement you are testifying to in writing?

The Witness: That I don't know, sir.

2309

Mr. Dorr: Produce the writing before secondary evidence as to its competency is offered.

By Mr. Beers:

Q. Do you know whether in fact the immigrants arriving at the port of New York and proceeding thence westward are divided among the trunk lines operating west of New York in accordance with some agreement or pool? A. Yes, sir; I do know they are.

Mr. Dorr: Same objection as to its materiality.

Q. How long has such an agreement, or how long has such agreement been existing to your knowledge?

2310

A. For the past many years; I couldn't say exactly how long.

Q. And is it a fact to your knowledge that for many years past the immigrant arriving at the port of New York and then proceeding westward have been apportioned among the railroads in accordance with an agreement between the railroads?

Mr. Dorr: The same objection.

A. Yes, sir. I would like to say the Interstate Commerce Commission know all about it and have agreed to it.

Mr. Dorr: I ask that be stricken out as something to which this witness is certainly incompetent to testify to.

Q. You recall do you not Mr. Straus the investigation by the Interstate Commerce Commission about the year 1904? A. Yes, I think it was around that date.

By Mr. Spooner:

Q. Search your memory a little and tell us, Mr. Straus, if you can, how far back your knowledge goes that that has been the distribution of traffic going west from New York. A. I can only tell you what I understood from very good authority that the first and second class business out of the port of New York was under arbitration I think of Albert Fink many years ago who was then commissioner. 2312

Q. How many years ago? A. I think it was about twenty, odd years ago, whereby he, I think, as arbitrator decided what percentage each trunk line should receive on first and second class business out of New York.

Q. Well that does not take in immigrants? A. And whatever percentage or proportion of the first and second class business that they fell short of they received so and so many more immigrants to make up the shortage. 2313

Mr. Bullowa: Compensation and—

The Witness: I don't know what you call it; whether it is compensation, but they did not receive it in money, but received it in passengers which is the same as money.

By Mr. Beers:

Q. There was in fact proportioned immigrant traffic west of New York to your knowledge and there has been for a considerable period of years past? A. Yes, sir.

*Max Straus*

2314

Q. Has that been a matter of common knowledge among railroads and steamship agents in this city?

Mr. Dorr: Objected to as purely immaterial.

A. As I understand the railroad people have so stated this to the Interstate Commerce people themselves.

Mr. Dorr: Objected to as to what the witness's understanding is; incompetent and irrelevant.

By Mr. Bullowa:

2315

Q. Mr. Straus, there is another question: As I understand it the Russian Volunteer Fleet did not make any serious effort to send first class passenger or freight; confining itself almost entirely to the steerage business? A. That I could not say. I was not familiar enough with the way Messrs. Richard & Company handled the first or second class business.

Q. Of course, any line to do any reasonable paying business, and to be on a reasonable paying basis, must take both freight and steerage business? A. Must have different classes.

2316

Mr. Dorr: Objected to as leading and he is not qualified as an expert.

Q. I understand, Mr. Straus, the steerage passenger business moves at different times than the freight business?

Mr. Dorr: I object to Mr. Bullowa's understanding being embodied in record in this way.

A. In certain seasons of the year, there are more steerage passengers travel than at other seasons. It is a sort of a supply and demand. If there is plenty of work here, plenty of passengers come here; if there is no work here, a great many of them go back.

Q. That is, the steerage business is an index of the prosperity of this country? A. Yes, sir.

Mr. Dorr: I object to all this line of examination as the witness is incompetent to testify, as to qualifications, irrelevant and immaterial.

The Witness: But it is absolutely true, Mr. Dorr.

Q. When is the heaviest immigration from this country? A. If you speak of Scandinavians, I will tell you round Christmas.

Q. On the Russian Line? A. On the Russian Line generally spring and about the holiday season, Christmas and New Year's.

2318

Q. When is the heaviest emigration to this country from Russia on your line? A. The farmers come on our line and generally go to the west, while the majority of other emigrants who come on our line are more tickets that have been sold here of passengers that have been here, sending for their wives and families when they have become prosperous or decided to become citizens.

Q. I mean what is the season of the heaviest immigration? A. It is a very difficult question to answer, seasons, because it goes by prosperity more than anything else.

Q. And financial conditions? A. Yes, sir.

2319

Q. Now, without some conference agreement, some arrangement between the lines, would it be possible for the lines to build up the present fleet of steamers, differing from your own fleet and retain the regularity of service? A. I don't think it would be possible.

Mr. Dorr: I object as it is the witness's conclusion without having qualified as an expert. It does not appear he has any knowledge as to the financial operations of his line; he is merely a passenger agent on this side of the water, without being acquainted with the affairs of his

country, even the agreement under which they are operating with other lines.

Q. Mr. Straus, when there is a sailing of some line that materially reduces the rates in a certain week, does that affect all the steamship lines? A. Yes, sir; for instance, there would be a fighting steamer sail on Thursday, every steamer of that particular week would go out practically with no steerage passengers, because everybody rushes towards the fighting steamers or the low priced steamers and all steamers, if it is Thursday, that follow Friday and Saturday up to Tuesday suffer on account of that particular steamer that goes ahead.

Q. So the sailing of a steamer with a nominally low rate hurts all lines? A. Yes, sir.

Mr. Dorr: I object to the form of that question.

Q. What effect has the sailing of a steamer with a low rate on the other lines, sailing about that time? A. As I said before they carry hardly any third class steerage passengers, due to the cheap rates, where the public will go to the cheap rate boats in preference to the others, because they can save so much money.

Q. To maintain a reasonable rate for the transportation of steerage passengers, is it necessary and essential for the line to have a number of steerage passengers on the sailing?

Mr. Dorr: I object to the question on the ground that the witness is not qualified.

A. You will have to have a large number of passengers in order to make any profit out of a rate like \$20. The ship must be practically full. A fair reasonable rate in my judgment for a third class passenger would be from \$35 to \$40.

Mr. Dorr: I object to that as not responsive, volunteered and not qualified.

By Mr. Bullowa:

Q. Now, if the competitive steamer sails with a large number of passengers at a low rate, it means that the other lines sailing in that week suffer if they maintain the old rate, the high rate? A. They would receive no money. If you turn to Sandford's statistics, their weekly sheets show the sailings every week. For instance, we had a steamer I believe went out last Thursday with 1,218 steerage and the Pennsylvania which followed, I believe, two days later had fifteen steerage, so we captured everything that was in sight and the other steamers got nothing.

2324

Q. So that anybody coming into the business, with any kind or type of old tramp steamer and making a sailing from this country to Russia or *vice versa*, would secure the business?

Mr. Dorr: Objected to as not based on the evidence.

A. If he put in these low ruinous rates.

Q. Then it would not be possible for steamship lines to maintain the present type of steamer and regularity of sailing, consisting of a steamer almost every day?

2325

A. I don't think it would be possible for them to keep it up.

Mr. Dorr: Objected to; the witness is not qualified.

Q. That is what the object of the maintenance of reasonable rates throughout the year is, to maintain a regular sailing? A. That is the object.

Q. That is, in certain seasons of the year you are obliged to sail steamers that are not paying? A. Regardless of how many passengers are there, the steamers will go out on time, whether it pays or not.

Q. You maintain them whether they pay or not; you keep and honor the schedule whether it pays you or not? A. Yes, sir.

Q. And a company coming in the business without any regular schedule can put on steamers in the seasons of the year where the immigrants are moving, without regard to the other seasons? A. They can if they wish to.

Q. And that has been the experience of these lines that have not owned vessels or maintained regular officers? A. I don't want to say anything about their experience, only my experience.

2327

Q. I mean that has been your experience with these outside lines? A. I was an outside line once myself.

Q. Mr. Straus, as I understand it today, you are competing with the other members of the so-called conference, for the traffic?

Mr. Dorr: I object to that on the ground that there has been no such testimony heretofore.

A. Yes, sir; we are competing just as much today as we ever did in our lives for every passenger we get.

2328

Q. That is, you try to get them all? A. We try to get the business.

By Mr. Spooner:

Q. Try to get them on the ship? A. Yes, sir; that is what we are paid for.

*RE-DIRECT EXAMINATION by Mr. Dorr:*

Q. Now, Mr. Straus, with regard to this conference, you regard it as something of great advantage to your line, do you not? A. I think so.

Q. Why did you leave it? A. I never left it.

Q. Why did your line leave it? A. I wasn't the passenger agent of the line when you said they left it.

Q. Are you in it now? A. Yes, sir.

Q. You are in the conference now? A. Yes, sir; in New York.

Mr. Bullowa: As I understand it, Mr. Straus, they are not in any agreement—

Mr. Dorr: I am willing to take Mr. Straus' word on the matter.

The Witness: I wanted to read you something, Mr. Dorr, that I had over the telephone, but you have not permitted me to do it yet.

2330

Mr. Dorr: We will let Mr. Bullowa testify himself as to any matters he desires to put in evidence.

Q. Now, Mr. Straus, are you prepared to say positively that there is no arrangement between your line at the present time and the other conference lines as to the division or pro-rating steerage traffic in the North Atlantic? A. I don't know anything about pro-rating steerage passengers as far as I am concerned.

Q. Well, if you don't know anything about it, I think you answered the question. A. I can state it positively as far as I am concerned.

Q. You know nothing about it? A. I know nothing about a division.

2331

Q. You know nothing about as to whether there is still such an agreement in existence? A. I have never seen any agreement; there may be an agreement in existence, but I have never seen it.

Q. You testified as I recall in answer to Mr. Bullowa's question, that your line was not forced into the conference that it was amply able to take care of itself; did you not so testify? A. I stated that our line was not forced into the conference.

Q. Did you not also state that it was amply able to take care of itself and that you knew that you could



*Max Straus*

2332

continue doing business? A. Yes, sir; I hope so.

Q. Now, at that time, you were charging what rates to Libau prior to your joining the conference? A. If you can give me some records here, I could tell you, but the rates change so often that it would be very difficult for me to tell you offhand what rates we charged to Libau.

Q. Well, we will get your best recollection first, and then perhaps we can go into it a little more in detail?

A. Possibly we charged I think as high as \$27, \$28, \$29 or \$30 to Libau.

2333

Q. What did you charge after you went into the conference? A. We charged \$30, \$31, \$32, \$33 and I think \$35.

Q. What do you charge now? A. We charge now to Libau steerage or third class \$35.

Q. And from Libau, an increase of how much in the rate? A. From Libau, I think we charge now \$45.

Q. \$45? A. Yes, sir; plus \$4 head tax for the United States Government.

Q. What did you charge before you entered the conference? A. I think we charged \$32, \$35, \$36 and \$37; I cannot exactly tell you.

2334

Q. Did you say you never charged under \$30? A. We might have charged under \$30, but I don't exactly remember; I shouldn't wonder if we did.

Q. Do you keep a statement? A. Yes, sir.

Q. Of the accounts, of the voucher, each voucher of your ship or ships? A. Yes, sir; you have got them here.

Q. Do they give the disbursements for each voyage? A. I have nothing to do with that. I understood you meant if I keep amounts and accounts of the voyage of the ships, for the passenger tickets.

Q. You keep no figures as to the disbursements? A. No, sir.

Q. For each voyage? A. No, sir.

Q. Have you seen such figures? A. No, sir.

Q. Haven't made any study of them? A. Oh, I have an idea of them.

Q. Do you know whether such accounts are kept in the freight agent's office? A. They keep certain accounts in the freight agent's office; yes, sir.

Q. Do they keep a record of the disbursements and receipts for each voyage? A. What they pay out; yes, sir.

Q. Do those accounts include the expenses for the voyage of the ship? A. Partly, I suppose.

Q. What expenses do they not include? A. Oh, they would not include I suppose coal; they would not include stevedoring; they would not include baggage; they would not include hundreds of things possibly. 2336

Q. Who pays those expenses? A. The company have their contracts on this side with certain people.

Q. Who makes those contracts? A. One of the managers of the company comes over here once or twice a year.

Q. Where are those contracts kept? A. I don't know.

Q. That information is not on this side of the water? A. I don't think so.

Q. You have not seen it? A. I have not seen it.

Q. Are you familiar with the rates charged for freight? A. No, sir. 2337

Q. Are you familiar with the receipts from freight? A. No, sir.

Q. Are you familiar with the expenditures for freight, expenses of the company for freight? A. I know about what expense the company has but am not exactly familiar with it.

Q. Do you know the company's expenditures for insurance? A. It is very high, but I don't know how much it is.

Q. You mean the rate is high? A. No; I know they pay a lot of money for insurance.

2338

Q. You don't know how much it is? A. No; one of the managers told me our insurance is very high.

Q. That is all you know about it? A. Yes, sir.

Q. Simply he told you it was very high? A. Yes, sir.

Q. You don't know anything about the freight rates either way? A. Oh, I have an idea.

Q. Do you keep track of the amount of freight carried by your ships? A. I don't keep track of it, but I know about what they receive.

Q. Do you know whether there is any agreement as to freight rates between your line and other lines?

2339

A. I don't know anything about that at all, sir.

Mr. Spooner: Now, that is objected to. I move to strike it out; not within the issues made by the pleadings, neither re-direct or cross-examination.

Q. Do you know whether there is any agreement between your line and other lines as to freight rates?

Mr. Beers: I object to that as not within the issues.

A. I don't know anything about freight.

2340

Mr. Spooner: Same question exactly, I object to it.

Q. You don't know? A. No, sir.

Q. Do you know whether there is any agreement between your line and other lines as to pro-rating of the freight traffic, either eastbound or westbound.

Mr. Beers: I should like to inquire whether the Government claims this is within the issues raised by the petition.

Mr. Spooner: Same objection.

Mr. Dorr: The principal object here, Mr. Beers, is my cross-examination of the witness's competency to answer the questions which have

been put to him on the direct, certain question. I can see that this has a very direct bearing on certain questions that have been answered. I do not think I should be compelled to state it at this time.

Mr. Beers: The questions which you asked this witness on a previous examination had to do as I understand, entirely with passenger traffic and for that reason I think we are entitled to know whether the Government claims the issues extend to any issues as to freight.

Mr. Dorr: I think it is clearly competent in cross-examining this witness on his testimony as to the necessity for an agreement such as has been testified exists here in the passenger business, to ascertain whether there is any such agreement for freight. 2342

Mr. Spooner: Same objection as before.

Mr. Beers: All this is subject to the stipulation.

A. I don't know anything about it.

Mr. Dorr: I suppose that same stipulation applies to the Government's objections. As I understand it we must make an objection and we can later insert the grounds, but we cannot insert objections. 2343

Mr. Beers: My understanding of the stipulation is that all objections are reserved except as to the form of the question and that they might be inserted at any time in the record. The objection as to the form of the question must be made at the time.

Mr. Dorr: If that is what we agreed upon that is entirely satisfactory, but I was making a number of objections because I was afraid I would not be able to insert the grounds unless I did state the reasons for the objections.

2344

Q. Do you know of any agreement between your line and other lines as to the division of freight traffic, pro-rating it among the lines?

Mr. Spooner: Same objection.

A. No, sir.

Q. You stated Mr. Straus, on Mr. Bullowa's examination, that at the time that you were out of the conference, you obtained a larger commercial allowance than the lines which were in the conference, was that true? A. Yes.

2345 Q. From what lines did you obtain that larger commercial allowance? A. I said in certain sections, in certain territories.

Q. What are the lines that paid you that larger commercial allowance? A. Must I answer that question?

2346 Q. You must? A. We have in the city what we call the first ward, that is the term that is given to the outside agents in the first ward, that is the section from Rector Street to the Battery, the Dead Line; we have outside agents that represent certain lines and when our passengers arrive at Ellis Island, the Trunk Line Association pays up a commission up to Chicago; the outside agent which we happened to be also, one of them at one time in certain sections of the country would allow us from fifty cents to a dollar more than the regular ten per cent commission allowed to the steamship companies. Therefore, I stated we received at times more.

Q. Was that in violation of their agreement with the steamship companies? A. The outside agent had no agreement with the steamship companies; they had an agreement with the railroad companies.

Q. What was the name of the outside agent who used to allow you this additional allowance? A. Well, is it right and fair for me to state that?

Q. Yes, we are testing your recollection? A. Peter McDonnell.

Q. And Peter McDonnell—you dealt with the railroads then through Peter McDonnell? A. Dealt with the trunk lines directly; we dealt also through Peter McDonnell.

Q. When you obtained this extra commercial allowance you were dealing through Peter McDonnell? A. When we got the extra commercial allowance, we dealt, of course, through Peter McDonnell.

Q. And Peter McDonnell did not deal with the road substantially as your representative, did he; he proposed to be acting for himself, did he not? A. I don't know anything about his arrangements with the road.

2348

Q. What is your understanding, Mr. Straus, on that point? A. It would only be guesswork on my part.

Q. We have had considerable of that; now let us have it on this point? A. Well, I believe—

Mr. Beers: I object to the form of the question.

Mr. Dorr: I will reframe the question.

Q. What is your guesswork on this point?

Mr. Bullowa: I object to that as clearly objectionable, what the guess is.

Q. What is your understanding about the matter, Mr. Straus? A. Well, I understood that Mr. McDonnell had a number of very good arrangements with the railroad companies and it took many years of Western Passenger Association before they could break these arrangements and today he is salaried by the Trunk Line Association.

2349

Q. Mr. McDonnell? A. Yes, sir; in order to keep off the grass.

Q. Then it is a fact, is it not, that Mr. McDonnell, that you understand it that Mr. McDonnell did not ostensibly represent you in dealing with these railroad

*Max Straus*

2350

lines and getting this allowance? A. I don't know what you mean by did not represent us; McDonnell represented himself.

Q. And in dealing with the railroads, he purported to represent himself and not to be acting as agent for you? A. I don't know.

Q. What is your understanding? A. I don't think that is necessary.

Q. What is your understanding?

Mr. Bullowa: You can have an understanding, Mr. Straus, or did you accept it as a fact?

2351

The Witness: Of course, if I answer the question it is purely guesswork again.

Q. What is your understanding?

By Mr. Bullowa:

Q. Did you have an understanding, if you did have one? A. I never thought that far about that particular transaction.

By Mr. Dorr:

Q. Thinking about it now, what is your understanding? A. I don't think the railroad companies care whether he represented me or not; they wanted the business.

2352

Q. Now, answer my question if you will, Mr. Straus? A. It is a very hard question, Mr. Dorr.

Q. So it seems; do your best? A. I shouldn't wonder that the railroads didn't know anything about it, I don't think they cared.

Q. You don't think they knew anything about it? do you? A. I don't think they cared about it.

Q. You don't think they know anything about it? A. I don't think they knew or cared about it.

Q. Will you answer the question as put; do you think they know about it? A. I don't think they knew or don't think they cared about it.

Q. Mr. Straus, will you kindly answer the question?

A. Do you wish me to answer?

Q. I wish you to answer that as put to you and nothing else? A. Let me have the question again.

Q. Do you think that the railroads knew about this matter? A. Possibly they did.

Q. Do you think that they knew?

Mr. Spooner: That is merely asking him for his opinion, whether he knew it or not.

Mr. Dorr: It is asking him for his understanding of the situation, you gentlemen having presented him as an expert in this matter. 2354

A. I don't know whether they did or not.

Q. Well, I asked what you think? A. It is a difficult question to answer.

Q. It was not a difficult question a minute ago, Mr. Straus, when you said three times, as the record will show, that you did not think that they knew, and insisted on adding you did not think they cared; why is it any more difficult now? A. Very well, they did not know, if that suits you better; I will answer that way.

Q. If that is your idea of testimony, Mr. Straus, you are at liberty to answer any way you please.

Mr. Spooner: Don't put that down. 2355

Mr. Dorr: Yes, I insist on having the witness's testimony.

Mr. Spooner: I don't think your characterization is correct.

Mr. Dorr: I do not care about that, but I insist on having the witness's characterization of his own testimony go down.

Witness: I don't think they cared and I don't think they knew.



2356

Q. Has the witness yet answered the question? Do you think that they knew? A. I don't think they knew, no.

Q. Now, the Estonia was a ship of what tonnage, Mr. Straus? A. I don't remember exactly the tonnage; I didn't bring the memorandum with me to show the tonnage of these different ships.

Q. What was the approximate tonnage? A. I think the Estonia is about five thousand tons.

2357

Q. Just one other question on that commercial allowance matter. Did you receive any commercial allowance on eastbound business before you joined the conference? A. On eastbound, that is from Chicago to New York?

Q. Any point in the United States, eastern? A. Yes, sir. No trouble to get it.

Q. You received that right along? A. Yes, sir.

Q. And from what lines? A. I believe the Wabash Railroad was one of them, Nickel Plate, Grand Trunk, the Baltimore & Ohio; in fact, I believe we received commercial allowances from all railroads except the standard lines, which are the Pennsylvania and the New York Central and their connections, such as the L. S. & M. S., Lake Shore & Michigan Southern.

2358

Q. I want you to be positive about this, Mr. Straus. Think it over carefully. Are you prepared to say that your line received commercial allowances from the railroads that you have mentioned on eastbound business prior to the time you became a member of the conference? A. I am quite certain we received it; in fact the arrangements with the Central Traffic Association were not in existence when we were an outside line, and everything was go-as-you-please in Chicago when everyone received it.

Q. Was that both west and east of Chicago that you received this eastbound allowance? A. You could not receive it west and east of Chicago.

Q. Did you receive it on traffic which originated west and east of Chicago? A. We are only speaking now from Chicago.

Q. I am talking now about the commercial allowance on eastbound traffic; did you receive a commercial allowance on traffic originating west of Chicago as well as for traffic which originated east of Chicago?

A. East of Chicago I could not say that we received that but from Chicago and west of Chicago, up into certain territory, such as the Twin Cities, particularly where there were seven different railroads going into that section of the country, where the competition is great, we received that commercial allowance from the Twin Cities to Chicago.

2360

Q. Then you received the commercial allowance on eastbound traffic only between the United States river gateways and Chicago? A. And from Chicago to New York.

Q. If it originated east of Chicago, you did not receive any? A. If it originated east of Chicago I do not believe we received it, because there was no such arrangement made.

Q. Now you testified that the amounts which the railroads paid in commercial allowances varied from time to time? A. Yes, sir.

Q. At times the railroads have paid as high as thirty per cent have they not of the inland, for commercial allowances? A. It did not go by percentages; it went by flat figures.

2361

Q. Well, weren't they flat figures that amounted in percentages to thirty per cent? A. Amounted sometimes to over fifty per cent.

Q. And the amount of the allowance was determined by the relative strength of the competition between the railroads and the steamship lines for that business? A. It was determined between the different railroad companies in competing with one another.

2362

Q. For the steamship business? A. For the steamship traffic and the labor traffic.

Q. That is the steamship lines controlling, routing their passengers, made the railroads bid against each other for that traffic? A. No, sir; not the steamship lines; the steamship agents and their own agents, at times the railroad agents.

Q. Well, the persons whether they were steamship companies or agents of steamship companies, or independent agents— A. Yes, sir.

2363

Q. Controlled in effect the routing of the steerage passengers, did they not? A. Certain agents controlled the routing of the passengers.

Q. A gentleman like Peter McDonnell controlled the routing of a considerable number of passengers did he not? A. Certain agents.

Q. And the steamship lines controlled the routing of a considerable number of passengers, did they not? A. Certain steamship lines never retained one cent of the commission but paid it all out.

Q. Then answer my question; the steamship lines, certain of them at any rate, controlled the routing of a considerable number of other passengers, did they not, or steerage passengers? A. The steamship lines themselves?

2364

Q. Through their agencies? A. Through their agencies controlled?

Q. Controlled through the routing a large part of the steerage passengers? A. That is true.

Q. Inland routing? A. That is true, too, naturally.

Q. And so that they were able to divert steerage passengers to one road or another as those roads offered the higher commercial allowance? A. Was not used that way, sir.

Q. Were they not able to do that? A. They were and they were not; I can answer it both ways.

Q. Did the railroad which offered a higher commer-

cial allowance ordinarily get the traffic from the steamship agencies? A. Yes, sir.

Q. Now was any commercial allowance allowed on the inland transportation in Europe; did your line receive any? A. The roads are owned by the Government.

Q. Did your line receive any commercial allowance? A. Not that I know of.

Q. You sell prepaid inland transportation from points in the United States to points in Europe, do you not? A. Yes.

Q. And you sell prepaid inland transportation from points in Europe to the point of embarkation do you not, on westbound traffic? A. Yes, sir.

Q. Have you produced certain papers? A. I gave them to Mr. Bullowa, to give to you.

Mr. Bullowa: They are marked for identification. Do you want to offer them in evidence?

Mr. Dorr: I am not going to offer a lot of immaterial things.

The Witness: This (indicating) is a letter I received today, just happens to be on the subject.

Mr. Dorr: Have you any objection to the Government looking at the papers the witness has produced?

Mr. Bullowa: I do not care.

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OSCAR L. RICHARD, sworn on behalf of the petitioner, testified as follows:

*Direct-examination by Mr. Guiler:*

Q. Where do you live? A. 46 East 72nd Street.

Q. Are you in business in New York City? A. Yes, sir.

*Oscar L. Richard*

2368

Q. And what line of business are you in? A. Steamship business.

Q. How long have you been in the steamship business? A. Forty years.

Q. That is, you mean by that you have been a steamship agent for forty years? A. Yes, sir.

Q. And during that time what lines have you represented? A. I have represented the Hamburg-American Line, the Union Line, Hansa Line, The Austro-American Line, Prince Line, Sicula-Americana Line, Lloyd Italiano that is all that I can remember. Oh, the New York and Continental Line and North West Transport Line and the Russian Volunteer Fleet.

2369

Q. Now when did you represent the New York and Continental Line? A. When?

Q. Yes? A. I think it was 1907 and 1908.

Q. 1908? A. New York and Continental Line, 1907, I believe.

Q. And at that time was the New York and Continental— A. From April, 1908, to August, 1908.

Q. Was that line at that time a member of the American-Atlantic Conference or not? A. No, sir.

Q. It was not a member of any conference, was it? A. No, sir.

Q. Now, later on did you represent—when did you represent the New York Transport Company? A. North West Transport Line?

2370

Q. Yes? A. February, 1909, to May, 1909.

Q. During that time was the North West Transport Company a member of any conference? A. No, sir.

Q. And from what time to what time did you represent the Russian Volunteer Fleet? A. From July, 1906, to July, 1908.

Q. And that line at that time was not a member of the conference? A. No, sir.

Q. It was a so-called outside line, was it not? A. Yes, sir.

Q. Now, do you remember what boats the New York and Continental Line sailed during the time you represented them? A. Yes, sir.

Q. What were they? A. The Avoca, Jelunga and Volturmo.

Q. And in regard to the North West Transport Company, what boats did they sail at that time? A. The Volturmo, Raglan Castle and Uranium.

Q. Did they subsequently get any other vessels? A. Not while we represented them.

Q. Do you know whether they did or not sail any other than those you have mentioned? A. I don't recollect.

2372

Q. Well, what vessels did the Russian Volunteer Fleet have while you represented them? A. The Russian Volunteer Fleet had The Kherson, The Petersburg, The Saratov, The Moskowa and The Smolensk.

Q. Were these vessels of the Russian Volunteer Fleet in good condition, were they good vessels? A. Yes, sir.

Q. About what tonnage did they have approximately? A. Well, they were different, from about 5500 to 7500, about.

Q. What had these vessels been before they became vessels of the Russian Volunteer Fleet; who was running these vessels before they became vessels of the Russian Volunteer Fleet; in what service were they? A. Well, they ran between Odessa and China ports.

2373

Q. Were they at any time run by the Russian Government as cruisers? A. Yes, sir; during the Russo-Japanese War.

Q. And subsequently to the Russian-Japanese War they were put on the service from Libau to New York, is that right? A. Before the Japanese War, the Russian Volunteer Fleet intended to organize a service between Odessa, Naples and New York and we were the agents at the time, but they never came here, because

*Oscar L. Richard*

2374

the war broke out and after the war, I induced them to put on the service sailing from the south to the north.

Q. Were you the sole agent for the Russian Volunteer Fleet in this country? A. Yes, sir.

Q. Represented them all the time that they were running? A. Yes, sir.

Q. While you were representing the New York and Continental Lines what opposition did you suffer from the so-called conference lines?

Mr. Beers: I object to the form of the question. It assumes a fact not proven and is leading.

2375

A. We met with all manner of obstacles.

Q. Will you name some of the obstacles that you met with during that time? A. Chief amongst which were so-called Rule 9 of the conference, which prohibited agents from booking for any line not a member of the conference.

Q. Well, how did that rule work, that is what was done by the conference lines in regard to Rule 9 to oppose you?

Mr. Beers: I object to the question. It assumes the reason for what the lines did.

2376

A. Well, they prevented any of the agents which really were our agents, as we built up a large network of agencies before we had the New York and Continental Line, from accepting the agency of the New York and Continental Line.

Q. Did the so-called conference lines take away any agencies which you had? A. Quite a number of instances when an agent who was not a conference agent, worked up a considerable business and the conference line would ascertain that fact they would take him away.

Q. Did you spend a great deal of time and money in appointing and instructing your agents?

Mr. Beers: That is objected to as leading.

Q. About how many agents did you have while you were representing the New York and Continental Line? A. Oh, I should say about twelve hundred.

Q. What was your method of training these various agents in their representation of your line? A. No training required; we sent them blanks and they issued the tickets and got the commission.

Mr. Spooner: You educated them to take the commission? A. Needed no training for that.

Q. How were these agents situated financially?

Mr. Beers: That is too indefinite, twelve hundred agents. 2378

Q. Were these agents responsible agents who represented you? A. We were obliged to appoint anyone who was willing to accept the agency and we placed little reliance upon their financial responsibility.

Q. Why was that that you were obliged to appoint anyone who would take it? A. Because the conference had the most responsible ones and they wouldn't accept our agency.

Q. Now, what class of agents did the conference take away from you, were they the best or the worst?

Mr. Beers: The same objection is made. 2379

A. I don't know; I can only answer the way I answered before: When they found an agent was doing a large business with us, they took him away from us, because in every instance they found it.

Q. Did you have any method of ascertaining whether an agent was good financially or bad financially, an agent to represent you? A. We made enquiries.

Q. How did you do that? A. If there was a bank in the town, we enquired of the bank, and if there was a well rated merchant we would enquire of him.



2380

Q. Did you have anyone go around and make these enquiries for you? A. We had a traveller who sometimes appointed an agent.

Q. Did he ascertain as best he could what condition their finances were? A. Yes, sir.

Mr. Bullowa: Mr. Guiler, cannot I suggest that you do not lead the witness, he seems to be a friendly witness.

The Witness: I am not friendly or unfriendly.

2381

Q. Now, Mr. Richard, did you represent or do you represent a non-conference or conference line at the present time? A. I represent the conference line at the present time.

Q. Exclusively? A. Yes, sir.

Q. How recently did you become their representative? A. In 1906.

Q. Who had you been representing previous to that time? A. New line.

Q. Which line was that? A. Lloyd Italiano.

Q. Now what you have said about agents in regard to the New York Continental Line applied to the agents who represented you while you were the general agent of the North West Transport Company and the Volunteer Fleet? A. Yes, sir.

2382

Q. And the same opposition was experienced by you? A. Yes, sir.

Q. Now did you experience any other method of opposition besides the matter of the agents?

Mr. Beers: The question is objected to as leading and because it characterizes the effect of the conference rules as to agents as "opposition" to the witness's line.

A. The matter of rates.

Q. Do you mean the rates on the sailings of your steamers? A. Rates were reduced; yes, sir.

Q. Can you tell us what happened in regard to the sailing of these various steamers, and the rates which were charged by the conference lines as opposed to your non-conference lines? A. Frequently when other lines had sailings at the same time that our steamers sailed, the rates of the conference lines running against our steamers were reduced.

Mr. Beers: I move to strike out the answer. The witness can state facts if he is able but not conclusions.

Q. In regard to the sailing of the various steamers of the conference line, whenever you had a sailing of your vessel, did the conference lines have a vessel on the same date in opposition to you? A. I won't say it went every time, but occasionally. 2384

Q. Was it occasionally or ordinarily, was it a regular process? A. You are talking of the Russian Volunteer Fleet?

Q. I am talking of all three? A. Well, I haven't got particulars, I don't know.

Q. Well, take the Russian Volunteer Fleet? A. The Russian Volunteer Fleet, the rates were reduced, commenced to reduce them almost the year after the line had been running. The rate to Rotterdam and Libau were reduced about a year after the line commenced to run. 2385

Q. What rates did you ordinarily have on your vessels? A. \$37 to Libau and \$30 to Rotterdam.

Q. Were the rates of the so-called conference line reduced to \$27 in opposition to your steamer?

Mr. Spooner: Let him testify. He has got the figures there; show him the figures. Moreover your question is improper as embodying a conclusion.

A. I don't know what the opposition charged, but I believe we reduced our rate to the same rate as the opposition to Rotterdam.

Q. How low did you have to reduce your rate to meet the so-called conference rate?

Mr. Spooner: It is assumed he did.

A. We reduced our rate in the first instance from \$30 to \$25, to Rotterdam. Then a few sailings later to \$23 to Rotterdam and a few sailings later to \$20 to Rotterdam, and to \$27 to Libau ultimately and the time came when we increased again.

2387 Q. Was the \$20 rate the lowest that you made to Rotterdam? A. Yes, sir; according to the extracts that were given to me by the bookkeeper.

Q. In regard to Rule 9 that you have mentioned, Mr. Richard, did you in any way complain to anyone connected with the so-called conference lines as to the workings of that rule? A. Yes, sir.

Q. Who did you complain to in regard to that? A. I complained to Mr. Sandford, Mr. Gustav H. Schwab of the North German Lloyd and Oelrichs & Company.

Q. Anyone else? A. I wrote a letter, I communicated with my lawyer.

2388 Q. Now, I show you a letter marked Government's Exhibit 13, dated February 28th, 1907, to Lawson Sandford and signed by you; is that a letter which you sent to Lawson Sandford at that time? A. Yes, sir.

Q. Copy of the letter? A. Yes, sir.

Q. In this letter of February 28th, 1907, you speak about a boycott against the Russian Volunteer Fleet by the conference lines and the result thereof. What did you mean by that?

Mr. Beers: Does not it speak for itself? I object to the question.

Mr. Guiler: No, it does not speak for itself.

A. That was in reference to the same Rule 9 referred to before.

Q. Can you explain further in regard to that what you meant by the boycott? Just explain what the actions of the conference had been there so as to result in your calling it a boycott?

Mr. Burlingham: I object to it on the ground that there wasn't any agreement then. This is prior to the making of the agreement "AA" and not within the issues.

Mr. Spooner: Let him state the facts.

Mr. Guiler: I have asked him to do that.

2390

Mr. Burlingham: I object on the ground that the evidence already before the Court established that there was no agreement in fact at the time the letter was written.

A. The only complaints that we had to make against the conference lines was that they prohibited us from appointing any agents we wanted to appoint, and against remarks which agents made derogatory to the lines, that steamers were unseaworthy, that they had been shot full of cannon balls during the war and would be liable to sink at any time; remarks of that kind.

Q. Were there any further remarks made about your line by the so-called conference agents?

2391

Mr. Burlingham: Doesn't appear that any were made. His letter is not evidence of the facts stated in it.

Mr. Guiler: It appears in this letter here (indicating).

Mr. Spooner: That is in evidence.

A. It is so long ago I don't recollect.

Q. Now, did you at any time, Mr. Richard, ever have a conference with Mr. Straus, Mr. Max Straus,

of A. E. Johnson & Company in regard to the working of Rule 9? A. Yes, sir.

Q. What conversation did you have with him?

Mr. Spooner: What date was that?

Q. Well, the last one, when was that? A. At various times.

Q. Can you tell us just what conference you had in regard to Rule 9 with Mr. Straus?

Mr. Spooner: What has that got to do with the case?

2393

Q. This was while you were representing the Russian Volunteer Fleet, were you not? A. Yes, sir.

Q. And while Mr. Straus was representing the Russian East Asiatic? A. Yes, sir.

By Mr. Bullowa:

Q. And at the time the Russian East Asiatic steamships were out of the conference? A. Yes, sir.

Q. And you were fighting each other?

Mr. Guiler: Just a minute, Mr. Bullowa; you will have a chance later on.

Mr. Bullowa: Expunge it, please.

2394

By Mr. Guiler:

Q. Now, will you tell me of those conferences you had with Mr. Straus?

Mr. Bullowa: I object to that as incompetent.

Mr. Spooner: Object to it as incompetent and irrelevant.

Mr. Bullowa: Would it be competent now, at that time? He was not an agent or a member of the conspiracy.

Mr. Spooner: Object to it as incompetent and irrelevant.

Q. Now, go ahead? A. Mr. Straus came to me repeatedly with suggestions of the best method to adopt.

Q. Well, tell us what the suggestions were?

Mr. Spooner: Was he a conference agent?

The Witness: No, sir.

Mr. Spooner: Well, it is objected to.

Mr. Dorr: He is a defendant, Senator.

Mr. Bullock: Is his past history at issue?

Mr. Dorr: Any admissions he may make will certainly show his state of mind.

Mr. Burlingham: Is our state of mind in issue? 2396

Mr. Dorr: The Government does not claim that what Mr. Straus said at the time that he was not a member of the conference, nor a party to the conspiracy then in existence is binding on the other defendants. These conversations are only evidence against Straus. So long as they are confined to a period prior to his joining the alleged conspiracy. Of course, so far as the evidence relates to conversations after that date, they are binding upon the defendants if the conspiracy is proved.

Q. Go ahead? A. He urged me to reduce rates, which I refused to do. I told him it would be much better to pay a larger commission as an inducement for agents to book passengers. 2397

By Mr. Spooner:

Q. Mr. Richard, at that time did Mr. Straus have any relations with this alleged conference? A. Only as agent of the Scandinavian American Line, not as Russian and East Asiatic agent.

By Mr. Guiler :

Q. What further suggestions did he have to add to this matter? A. Well, he wanted me to take proceedings against the conference.

Q. On what ground did he ask you to take the proceedings?

Mr. Spooner: That is objected to as incompetent.

A. On the ground that some of the rules were illegal, some of the rules of the conference.

2399 Q. In what way were they illegal, a violation of what law? A. I always considered Rule No. 9—

Mr. Beers: Are you asking his opinion, qualifying him as a legal expert?

Mr. Dorr: No, asking him what Mr. Straus said. In violation of what?

A. Violation of the Sherman Anti-trust law.

Q. At that time Mr. Straus thought it was in violation of the Sherman Anti-trust Law, is that the idea?

2400 Mr. Beers: I object to it, object to the form of the question. It is leading and asking the opinion of Mr. Straus in respect to a matter of legal interpretation.

Mr. Spooner: The Supreme Court has decided it was misconstrued by the Supreme Court for a great many years.

Q. Did Mr. Straus express any opinion at that time in regard to what law it was in violation of?

Mr. Spooner: That is objected to as immaterial.

Mr. Burlingham: Calling for the views of the witness as to laws.

*Oscar L. Richard*

2401

Mr. Dorr: This is testimony showing that prior to the time he entered into the alleged conspiracy he believed it to be illegal.

Mr. Bullowa: What of it?

Mr. Dorr: It certainly throws considerable light on the testimony which he has given on the stand today.

Mr. Guiler: Go ahead, Mr. Richard.

A. We had conversations on the question of some of the conference rules and I consulted my lawyers; my lawyer told me that he thought—

Mr. Spooner: Never mind about your lawyers. 2402

Q. No; just Straus' opinion? A. Mr. Straus' opinion was that I ought to proceed against the conference by reporting the matter to the District Attorney, which I refused to do.

Q. Did you have any conversation with Mr. Straus in regard to Mr. Bullowa presenting this matter to the District Attorney's office?

Mr. Spooner: Objected to as leading and incompetent and entirely immaterial.

A. I don't recollect that. I only recollect that Mr. Bullowa called on me once and I don't know on what subject. 2403

By Mr. Spooner:

Q. Did you see Mr. Bullowa? Did he call on you?

A. Yes, sir.

Mr. Guiler: Now, Mr. Richard, how did you come to represent the North West Transport Company as agent?

Mr. Spooner: Objected to as immaterial and irrelevant.



A. At the time we represented the North West Transport Line, we represented the Prince Line and the Lloyd Italiano which were both members of the conference and there was a certain pressure brought to bear by the conference lines, the Prince Line and the Lloyd Italiano, and they asked us to get out.

Mr. Spooner: I move to strike out the answer as incompetent and not responsive, etc.

Q. Who asked you to get out? A. Both the Prince Line and Lloyd Italiano.

2405 Q. Did they give you any reasons for asking you to get out? A. They said it was disagreeable.

Q. Who said that? A. The Prince Line and the Lloyd Italiano.

Q. What member of that line spoke to you; who was it said this to you? A. Wrote it to us.

Mr. Spooner: I now move to strike out this testimony. The letters are the best evidence.

Q. Have you got those letters now? A. I haven't got them here.

Q. You have them in the office? A. I believe so.

Q. Will you produce those, Mr. Richard? A. Yes.

2406 Q. Now, Mr. Richard how soon did this competition with the Russian Volunteer Fleet to Libau start out after you began to represent the Volunteer Fleet? A. You mean in rates?

Q. Yes, rates or sailings of vessels by the conference lines? A. As soon as it became public that the Russian Volunteer Fleet was to start a service from Libau to New York, the Russian East Asiatic Company quickly put on two steamers.

Q. Do you remember what steamers those were? A. The Allemania and Albingia.

Q. Of what line were those steamers? A. Two Hamburg steamers.

Q. Hamburg-American Line? A. Hamburg-American Line; the line was called the Russian East Asiatic Line and Emil Boas was manager.

Q. And he was at that same time the director of the Hamburg-American Line? A. Director at New York, yes; later on there were one or two more steamers added I believe by the Russian East Asiatic Company.

Mr. Burlingham: Ran to Libau?

The Witness: Yes.

Q. Was that the New Hamburg Line? A. No, called the Russian East Asiatic Company.

By Mr. Guiler:

2408

Q. What was it caused you to give up the agency of the North West Transport Company?

Mr. Burlingham: Objected to as entirely immaterial and irrelevant.

A. I just told that.

Q. Were there any other reasons than you have already given? A. No, sir.

Q. Now, you heard Mr. Straus testify this morning, did you not? A. Yes, sir.

Q. You heard him state, as I remember it, that you retained the money for prepaid tickets and returned it when the passengers were carried to the other side, on the ground that you thought these various lines were shaky; that is practically what he said, is that so?

2409

Mr. Spooner: That is not what he said.

Mr. Burlingham: We object on the ground it does not state the fact.

Q. Because the lines were not financially responsible? A. Our agreement called for payment prepaid within forty-eight hours after receiving the list of passengers forwarded.

Q. You retained it under your agreement and not for the reasons stated?

*Oscar L. Richard*

2410

Mr. Beers: That is objected to; he has not testified to that.

Q. I will put it this way: What were the reasons?

A. There was no question about the financial responsibility of the line.

Mr. Beers: I move to strike that answer out as not responsive.

Q. Now, did you tell Mr. Straus that it was on account of the lack of financial responsibility that you did this? A. Absolutely not.

2411 Q. So that what he said this morning was untrue?  
A. Yes, sir.

By Mr. Dorr:

Q. How long have you represented the Italian Line?  
A. Six years, the Lloyd Italiano.

Q. During that time from what territory has the Lloyd Italiano drawn its steerage business, its west-bound steerage business? A. Italy.

Q. Exclusively? A. Yes, sir. Sometimes get a few passengers from Syria and Greece, a few of them.

Q. Has it at any time booked passengers from continental points? A. At one time.

2412 Q. When was that? A. Not from, to continental points.

Q. Does it book them to continental points at the present time? A. Not at the present time.

Q. When was it that it did book eastbound traffic to continental points? A. I think it must have been two or three years ago.

Q. Prior to 1909? A. I don't recollect it; I would have to refresh my memory from the records.

Q. Do you recall whether or not at the time when you did so book eastbound traffic to continental points, you published inland traffic rates to continental points?  
A. Yes, sir.

*Oscar L. Richard*

2413

Q. Have you got any of those rate lists still in your possession? A. I may have; I don't know.

Q. Will you make search for them? A. Yes.

Q. Do you recall the circumstances under which you ceased to book eastbound passengers inland to continental points? A. I think there was a war on rates to Italian ports at the time by the German lines and the northern continental lines made by the northern continental lines, North German Lloyd and Hamburg Line.

Q. How was that war terminated? A. We received instruction from the home office to cease quoting rates to continental ports.

2414

Q. Have you any information as to whether there was any agreement entered into between the Mediterranean lines and the North Atlantic lines by which the Mediterranean lines agreed not to book eastbound traffic to continental points? A. I understood there was such an agreement made.

Mr. Beers: I move to strike out the answer as incompetent.

Q. And thereafter you discontinued that booking?  
A. Yes, sir.

Q. Did you have any difficulty while you were with the Russian Volunteer Fleet with regard to the passage of passengers of your line through the control stations in Germany?

2415

Mr. Beers: I object upon the ground that the witness is not shown to have had any knowledge on the subject. He has testified he was agent in New York and was not in Europe.

A. Yes, sir; considerable.

Q. What was the nature of that difficulty?

2416

*Oscar L. Richard*

Mr. Beers: Same objection.

A. Passengers, individuals and sometimes whole families would arrive at the frontier station, holding tickets for a Russian Volunteer Fleet steamer and be either detained there until they could communicate with their relatives on this side asking for remittances to be forwarded on some other steamer of a conference line, or else they were returned to the place from whence they came.

2417

Mr. Beers: I now move to strike out this testimony upon the same grounds and as hearsay.

Q. What became of your tickets that you had sold them under those circumstances? A. Tickets were returned and cancelled and money refunded.

Q. You refunded the money to passengers? A. Yes.

Mr. Burlingham: I would like to produce a few more documents in response to the call of the District Attorney.

I produce the minutes of meetings of the Mediterranean conference, held in New York in 1907, 1908 and 1909.

Marked Petitioner's Exhibit 225.

2418

I also produce in response to the same call from the office of the conference, arrangements with trunk lines similar to arrangements with Central Passenger Association, between January 1st, 1908, to and including May 1st, 1912, east and westbound. I also produce notice to agents, consisting of letters from the special committee of conference lines dated January 21st and January 26th, 1909, February 5th and 8th, 1909, March 4th and 24th, 1909, August 31st, 1909, and circular letter from the conference lines to their agents dated September 1st.

1909, with reference to commercial allowances from New York to Buffalo and points west. Letter from special westbound railroad committee to the lines, dated August 26th, 1910, and letter from the lines to the agents dated September 15th, 1910, with reference to commercial allowances from New York to Pittsburgh and points west, and further letters from the westbound railroad committee to the lines themselves, dated March 8th and March 9th, 1911, and report from the special committee, dated January 31st, 1912, stating the result of negotiations with the Trunk Line Railroad for westbound emigrant forwarding, these arrangements to be effective February 1st, 1912, and a notice from the lines to the agents, dated February 1st, 1912, announcing withdrawal of commission on westbound first and mixed class inland forwarding in connection with westbound steamship business.

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2420

Marked Petitioner's Exhibit No. 226 for identification.

In answer to the request of the District Attorney for the production of rate lists compiled by Mr. Sandford, I have to state that the present secretary of the conference had searched the office files and finds no such tabulation as is requested but has produced at my request a voluminous body of documents showing changes in rates between June 11th, 1907, and December 28th, 1911.

2421

Marked Petitioner's Exhibit No. 227.

If the District Attorney prefers the secretary of the conference should make a table of these, I will do my best and have him prepare such a table, showing the changes in rates say from the port of New York to some designated ports, during the periods of years, if that will be of any value. You look those over and let me

2422

*Oscar L. Richard*

know whether you want to put them in or whether you prefer the others.

Recess taken until 2 o'clock P. M.

Afternoon session.

*EXAMINED by Mr. Spooner:*

2423 Q. Something was said to you in regard to your line from Russia, coming from Russia, the passengers being turned back at the German frontier? A. Yes.

Q. Did you expect to be understood as imputing that to your competitors? A. Yes, sir.

Q. You think of no other reason than that? A. No, sir.

Q. Did they have passports, those people? A. Yes, sir.

2424 Q. Do you know whether or not the German government permits a steamship to do business in its territory without concessions—requires as a condition precedent to transacting steamship business, emigrant business within its territory, that it shall have a concession from the government itself to do so? A. Yes, for any tickets sold within the German territory.

Q. How? A. In case tickets are to be sold in the German territory, the agent must have a concession from the German government.

Q. Can you land passengers in a German port without a concession from the German government? A. I don't know.

Q. Do you know whether the German government has got any agreement with the United States to not admit passengers—emigrants from Russia, to be transported through Germany, unless they were subjected to a medical examination at any time? A. I

only know that emigrants have to be subjected to an examination by a doctor at the port before sailing.

Q. You did not mean to testify in answer to my question, that it was not a requirement of the German government? A. You said the American government.

Q. No, no. The German government? A. Oh, yes; the German government require an examination at the frontier.

Q. Yes. Now, were your people examined, the people who held your tickets? A. Perfectly willing to be examined.

Q. Were they examined? A. They were rejected by the steamship company's agent.

2426

Q. On what account? A. They would not forward them.

Q. Who maintains the control stations where these examinations are made? A. I believe the Hamburg Line and the North German Lloyd and the Holland-American and the Red Star participate in the expense.

Q. Did your company participate in that expense? A. Perfectly willing to.

Q. Did it offer to? A. I don't know.

Q. Did you ever apply for permission to? A. I can't say.

Q. Then, you seem to imply that in your opinion these people who came from Russia into Germany on your tickets from the United States, were examined there entirely at the expense of the old companies?

2427

A. No, sir; our company would have been very willing to pay a share in the expense, and yet I don't know whether they did. I don't know what they did.

Q. Then all you know about it is that the people were stopped? A. Yes.

Q. And you think that was caused solely by the hostility of your competitors? A. Yes; and the poor innocent emigrants had to suffer.



2428

*Oscar L. Richard*

Q. Yes, the emigrants suffer a good deal anyhow. They suffer a good deal from some of the steamship companies? A. In what way?

Q. Well, I would think if I were a poor, ignorant emigrant, and came to this country, and worked like a dog to raise money to send to my wife and children and get a ticket on your line, buying it at New Britain—and the ticket turned out to be not good, and the money was refunded to me, to think I should have to pay the commission of your agents in selling that ticket. That is the testimony here. I may be wrong about it. I am putting myself for a moment in the position—  
2429 A. We are talking about the emigrants suffering. That is not the emigrants; that is the purchaser of the ticket.

Q. Well, he is the emigrant? A. I understood you to say the emigrant had to suffer on the steamer.

Q. No, no. You have been in the business forty years? A. Yes.

Mr. Dorr: I object to Senator Spooner's remarks, on the ground that they do not accurately state the evidence, in that he states that the purchasers of tickets at New Britain, Connecticut, were not returned the purchase price, and that the tickets proved to be invalid, whereas all the testimony is that the tickets were good.  
2430

Mr. Spooner: Well, they were not accepted—I mean by that.

Witness: Whenever tickets are cancelled, no matter what line, the agents always deduct their commissions.

Q. One of the witnesses testified that he was notified that the ticket had been sent back, after seeing a letter from his wife, asking him for more money, and he went to the agent, and the agent got him back the money less five dollars commission? A. You will find

that printed on the back of every prepaid ticket of every steamship line, in case of the ticket being cancelled the money will be refunded less the agent's commission of ten per cent.

Q. I think that would be all right— A. So, it is not exceptional with one line.

Q. I think that would be all right if the tickets were cancelled because it is something—the purchaser of the ticket wanted it cancelled or because the person was not aided to come, or something of that kind. But here the ticket was cancelled because he could not use it. A. Then you must blame those lines.

Q. I understood that it happened because of lack of certification? A. No. 2432

Q. Suppose that had happened?

Mr. Dorr: I object to that.

A. No matter what the reason is—you can mention a dozen reasons that the money will be refunded—we refund to the agents; the steamship companies refund to the sub-agents the net amount which he sends to us less ten per cent.

Q. You have seen a great many lines come and go since you have got into this business? A. Some of them, yes; not a great many.

Q. Well, how many lines were there in operation between New York and London and Hamburg when you began this business? 2433

Mr. Dorr: Is that confined to passenger lines?

Mr. Spooner: Yes; passenger lines.

A. I can recall at the time I went into the business there were two lines to Hamburg.

Q. What were they? A. Or some years after, when we first went into the business—the Hamburg-American Line and the other the Edward Carle's Line

2434

called the direct Hamburg Line. That line was later purchased by the Hamburg-American Company. That line went from Hamburg to New York.

Q. How many were there between New York and Liverpool? A. The White Star Line, the Inman Lines, National Line, Williams & Guion Line, the Guion Line—that is all I can give from memory.

Q. You have seen a great many rate wars since that time? A. There was another line from Hamburg, later called the Union Line, and a line from Hamburg to Montreal called the Hanover Line.

2435

Q. Have you seen lines driven out of business by competition here? A. Yes.

Q. More than one, during these years? A. I am only trying to give the history; I am thinking of two lines that were represented—

Q. Yes? A. The New York and Continental Line and the Russian Volunteer Fleet.

Q. Well, back of that? A. I know some lines went out of existence; I don't know the reason. The Williams & Guion Line and the National Line.

2436

Q. Was there great competition in those days? A. The Carle Line which I spoke of, which the Hamburg Line bought up—the competition was too strong. The competition was very strong, so they bought that up; bought up the steamers and took over the directors. Mr. Ballin at that time was running the line. He charged the space in the steamers provisioned them—paid Mr. Carroll for so much space, so many cubic feet. He attended to anything—Mr. Ballin—and that was the beginning of his career, and he made such a success of it that the Hamburg Line finally made an arrangement with Mr. Ballin to take over the steamers, they had to take over Mr. Ballin at the same time, and he was a subcontractor at the same time, and he worked himself up to the head of the line.

Q. That is creditable to anybody, is it not? A. Very creditable.

Q. You don't give this history simply to reflect—

A. No, I think it very creditable for a person to work themselves up the way he did.

Q. Is there an understanding between the steamship companies sailing between the same ports, employed in the same class of business in respect to passengers in the rates when there was any competition. What would be the effect on some of the lines? A. If there was any competition?

Q. Yes? A. It would drive some of the lines out of business and curtail it, between the United States and foreign countries.

Q. The stronger would remain and the weaker would go? A. Undoubtedly.

Q. Then you have no hesitation in saying that there is some arrangement between lines on such matters, and it is usual and necessary? A. I don't think they can exist without some arrangement.

2438

Mr. Dorr: I object to it on the ground that it does not relate to anything on direct-examination, is not cross-examination, and the witness is not qualified as an expert.

Mr. Spooner: If the direct-examination had been a direct-examination instead of a cross-examination—

Mr. Dorr: I think you might confine yourself to matters which were taken up on the so-called cross-examination.

2439

Q. Because of your long experience in this business and practical knowledge of it, I ask you the question whether in your opinion the rates in the prevailing—the so called lines, for the transportation of steerage passengers are or are not unreasonable?

Mr. Dorr: Objected to on the ground that no foundation has been laid. The witness has not been qualified as an expert on the cost of

2440

*Oscar L. Richard*

steerage transportation and has not shown that he has any knowledge of the existing rates and the conditions of the North Atlantic Steerage business.

A. They are very reasonable.

Mr. Bullowa: You saw Mr. Schwab of the North German Lloyd? A. Yes.

Q. And the only thing you made complaint about at the conference was rule nine? A. Yes.

Q. And you offered when you saw him to agree upon rates? A. I offered to maintain rates and commissions.

2441

Q. Do you think it is desirable to maintain rates and commissions? A. Absolutely necessary.

Q. It is essential for all the lines? A. Yes.

Q. Now in connection with when you were operating the Northwest Transport and the Volunteer Fleet the Russian East Asiatic Steamship Company, Ltd., was also fighting the conference at one time? A. Yes.

Q. And you co-operated with Mr. Straus and the Russian and the East Asiatic Company in fighting the conference? A. Yes.

Q. And you did all you could to seduce the agents of the conference? A. Yes.

Q. And you succeeded in some cases? A. Some instances.

2442

Q. You retaliated as far as you could in securing the business from the conference agents? A. Yes.

Q. Do you think there would be anything unreasonable for a railroad ticket office to refuse to sell the tickets of another line, another railroad—

Mr. Dorr: I object to that as incompetent and irrelevant and immaterial.

Q. (Continuing). Of a competing railroad? A. Unreasonable?

Q. Yes? A. No.

Q. Now, you know that these conference lines have had great expense to build up throughout the country regular ticket agencies, have they not? A. Well, my firm started in business long before anyone else did to build up these agencies and we were probably entitled to have that—

Q. I know, but part of the time you have been in the conference. You have represented conference lines, and you are today representing conference lines?

A. Yes.

Q. You applied on behalf of the Northwest Transportation Line to become a member of the conference?

A. No, sir.

2444

Q. On behalf of the Russian Volunteer Fleet? A. I believe the companies in Europe applied to the Russian Volunteer Fleet; not here.

Q. As matter of fact, these agencies have been building up throughout the country at great expense, have they not? A. Yes.

Q. And you thought it was perfectly fair that some other company that simply came in the business should go to these agents and expect them to sell your tickets? A. The Russian Volunteer Fleet competed only with the Holland-American Line, because the Russian Volunteer Fleet Steamers touched at Rotterdam on the way to Libau. There was not any other line to Libau and I have had no objections whatever for the Holland-American Line to give up the agency. I don't think it was right for them, even the lines that go up to Montreal to take the agency away from agents that we had appointed.

2445

Q. You thought it perfectly fair—you thought it was reasonable for the regular agent of these different lines to sell tickets for your line although they were competing with their own previous clients—regular clients? A. As far as that is concerned they are all competing lines.

2446

*Oscar L. Richard*

Q. They are all competing lines? A. They are all competing lines? Why should they just choose the Russian Volunteer Fleet.

Q. You remember paying your agents higher commissions? A. We offered inducements. I offered to maintain the same rates and commissions.

Q. You started to pay them higher commissions and then expected these lines to sit idly by while you were taking the business for the Volunteer Fleet? A. Is that a question.

Q. Did you? A. I expected—

2447

Q. For the lines to sit idly by?

Mr. Dorr: I object to that on the ground that it does not properly state the evidence as already indicated, which has not shown that the commissions were immediately increased. As I understand the testimony the Russian Volunteer Fleet was perfectly willing to maintain regular commissions.

2448

Q. Isn't it a fact that the only difference between these tickets of the line and the railroad ticket agents throughout the country, is that the railroad ticket agent is paid a salary and these agents of the steamship lines are paid on a commission basis? A. I presume there are plenty of railroad ticket agents that sell tickets for various lines, not only for one single line.

Q. I know; but they are usually paid on a salary basis? A. If they are agents for one line alone, then they are on a salary basis.

Q. And then the rates are fixed by law? A. Yes.

Q. And published? A. Yes.

Q. The New York and Continental Line—did you have anything to do with its inception? A. No, sir.

Q. Who were the people back of it? A. William Peterson & Company were the managers.

Q. Well, did you contribute any capital to it? A. No, sir.

Q. Who were the people back of the Northwest Transport Line? A. No—William Peterson & Company and Robertson, Shanklin Company were the backers of the Continental Line.

Q. Who? A. Robertson, Shanklin & Company.

Q. London House? A. I think it was a London House.

Q. Who were the people back of the Northwest Transport Company? A. William Peterson & Company were managers.

Q. Did the Continental Line pay all its indebtedness after it went out of business? A. I think so.

Q. Did the Northwest Transport Line? A. I don't know.

Q. Now, the Prince Line and the Lloyd Italiano asked you to give up the agency— A. I will have to correct that testimony, I was somewhat mistaken there. The letter that I referred to written in 1906 in which I said that I would report the matter to the authorities, and the letter which we received in the spring of 1909, I have not been able to lay my hands on—was from the Lloyd Italiano. The Prince Line had gone out of business in the meanwhile. They had withdrawn their steamers from the Mediterranean trade because there was a new law passed by the Italian Government requiring all emigrants to be forwarded on Prince Line steamers.

Q. The Prince Line was not driven out of business by the conference? A. No.

Mr. Dorr: It was a member of the conference, wasn't it, the Prince Line?

The Witness: It was a member of the conference off and on.

Q. When you withdrew from the agency of the Northwest Transport Line, Vesely & Company became the agents, didn't they? A. Yes.

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2451



*Oscar L. Richard*

2452

Q. Had they any connection with you at all? A. No.

Q. Had Vesely been in your employ? A. Yes, long before.

Q. You had no interest in the— A. Well, Mr. Bullowa, has this anything to do with steamship talk—

Q. You had no interest in Vesely & Company?

Mr. Dorr: I object to it as immaterial.

2453

A. Mr. Straus has been very curious on that for several years, and I have always refused to satisfy his curiosity.

Q. All right, I will withdraw the question. Well, Mr. Richard, the vessels of the Russian Volunteer were expensive vessels to run? A. Yes.

Q. They were not especially fitted for the emigrant trade of the North Atlantic, were they? A. Yes, they were. One, in fact, was the old Prince Bismark of the Hamburg Line.

Q. She had always been a very expensive vessel to run? A. One of the fast steamers. A twenty-one knot steamer.

2454

Q. Then she wasn't especially fitted or equipped for a mechanical running in the North Atlantic? A. Not under modern conditions.

Q. And the other vessels were of the same class? A. Yes.

Q. That is a vessel that is equipped for economical running can compete very successfully with that class of steamers? A. Of the same tonnage.

Q. Who was the president of the Volunteer Fleet? A. Admiral Nidermuller.

Q. Was Admiral Radloff at one time? A. He is at present; after the line withdrew from the New York service.

Q. Have you ever received letters from him? A. Admiral Radloff?

Q. Yes. A. Personal letters.

Q. You can identify his signature of course? A. Yes.

Q. Of course, he would be better qualified to state why the lines withdrew from the business than you would be, would he not? A. I can only tell you what the president told me at the time the line was run.

Q. Wouldn't he, Admiral Radloff, be better qualified to state why the Volunteer Fleet withdrew from the business than you would be?

Mr. Dorr: Objected to.

(No answer.)

2456

Q. Can you look at that and tell me whether that is Admiral Radloff's signature (handing letter)? A. It looks like it.

Q. You have no question about it, have you? A. No, I have no question about it.

Mr. Bullowa: Then I will offer it in evidence.

Mr. Dorr: I object to this letter as incompetent. It purports to be a letter from a person named A. Radloff to the editor of a newspaper, and I object to it as the declaration of a man not submitted to cross-examination.

2457

The letter was received in evidence and marked Defendant's Exhibit No. 3.

It reads as follows:

2458

Oscar L. Richard

Russian Volunteer Fleet  
19, Morskaia,  
St. Petersburg,  
12/25 January 1911  
No. 165.

The Editor of the "SHIPPING  
ILLUSTRATED," 22, Thames  
Street, New York.

Dear Sir:

2459 In your issue of the 7th inst., we find, in an article headed: "ACTION AGAINST THE TRANS-ATLANTIC POOL," mention made of the Russian Volunteer Fleet as "*having been driven out of business*" as a result of the practices adopted by the Pool.

We beg to say that the above statement, as far as it concerns the Volunteer Fleet, is not correct, as the Committee of the Russian Volunteer Fleet had decided to suspend their Libau-New York line for reasons of their own that had nothing in common with the attitude taken by the Pool.

Believe us, Dear Sir,

Yours faithfully,

(Sgd.) A. RADLOFF,

President.

2460

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Q. The steamers of the New York and Continental, Avoca, Jelunga, Volturmo were not specially equipped or fitted for economical carriage of steerage passengers, were they? A. I know the Volturmo was specially built for the traffic.

Q. For the Northwest Transport Line? A. No, for an Italian firm.

Q. She wasn't built for the North Atlantic traffic?  
A. We were not financially strong enough to take

the steamer off the builder's hand, and she was lying in Genoa for quite a while before she was taken over by the New York and Continental Line.

Q. How about the Avoca? A. The Avoca and Jelunga were renamed, so I don't know what their former names were.

Q. They were rather old steamers that were not economically run? A. It may be, I could not say. I was here at the time I could not say that.

Q. Don't you know? A. I was abroad at the time.

Q. Do you think the rate of \$20 from New York to Europe is a reasonable rate? A. No, sir.

Q. Do you think it is an unreasonable rate?

2462

Mr. Dorr: I object to it, on the ground that the witness has not been qualified, no foundation has been laid for this testimony, and it is not cross-examination on any examination on the direct.

A. Yes.

Q. For steerage passengers? A. Yes.

Q. You think that if a rate of \$20 was made by the lines that the lines would be forced to suspend numbers of their sailings? A. Yes.

Mr. Dorr: I object to that on the same ground and also as leading.

2463

Q. And that some lines would be driven out?

Mr. Dorr: Same objection.

A. Yes.

Q. And that the public would not have the advantage of regular sailings almost daily?

Mr. Dorr: I object to it as leading and as entirely speculative, and no foundation being laid, and not cross-examination.

2464

*Oscar L. Richard*

A. Yes.

Q. Mr. Richard, have you had any suspicion that the Canadian Northern was back of the Northwest Transport Line?

Mr. Dorr: I object to it on the ground that it is not cross-examination and it is not competent evidence.

2465

Q. Have you had any reason to believe that? A. I have always heard that people identified with the Canadian Northern Railroad were identified with the New York & Continental Line and Northwest Transport Line and with the Uranium Line.

Mr. Dorr: I move to strike that out as immaterial and irrelevant.

Q. Who were those people as far as you know?

A. McKenzie, Mann & Company.

Q. Of Toronto? A. Yes.

Q. Anybody else? A. No.

Q. Did you ever hear of Mr. Hanna? A. I have heard of him, yes.

Q. Is he connected with the Canadian Northern?

A. I believe he is second or third vice president.

Q. Of the Canadian Northern? A. Yes.

2466

Q. What relation have McKenzie & Mann to the Canadian Northern?

Mr. Dorr: Same objection.

A. I think they built the railroad.

Q. What connection do you understand they have with the New York & Continental, the Northwest Transport, and the Uranium Line? A. It was always my impression that they were backing William Peterson.

Q. Is there any reason you can state why they were first the New York & Continental, then the Northwest

Transport and then the Uranium Line? A. I don't know.

Q. You don't know any reason for this succession of companies? A. I don't know.

Mr. Dorr: Objected to.

A. (Continuing.) Except that I was informed that the New York & Continental Line had not enough money and they had to give up the line.

Q. Have you any reason to believe there has been a controversy between the Canadian Northern and the Canadian Pacific? A. No, sir.

2468

By Mr. Beers:

Q. Mr. Richard, I understood you to testify as to certain statements made by conference agents with reference to ships which you represented. Did you personally hear any such statements made? A. No, sir; heard them through our traveling man.

Q. But you yourself never heard any such statement? A. No, sir—I was told it was in the Hebrew papers of the East Side.

Q. You were told that? A. Yes.

Q. Did you see the paper? A. Mr. Fourman at the time—when he was connected with it—

Q. Did you see the paper? A. I could not read it anyway. 2469

By Mr. Burlingham:

Q. This letter, Mr. Richard, Exhibit 13, dated February 28, 1907, seems to refer to first cabin tickets, it says, "We have a letter from an agent today who after having sold his first cabin ticket says that the purchaser who is a reverend gentleman of responsibility was approached by two well known conference agents who gave him no end of worry by telling him that the line was not fit to send his dog by." Does

the whole letter refer to first cabin or steerage accommodation? A. That is only one instance.

Q. And even that instance was not brought to your knowledge, I suppose, was not a matter of knowledge by you? A. This one?

Q. Yes. A. Well, it must have been an agent who brought this information.

Q. The agent had received a letter to that effect, about a reverend gentleman, do you think? A. At the time this was written I was in St. Moritz, Switzerland.

2471

Q. You didn't write it yourself then? A. I didn't write it myself.

Q. At that time, in February, 1907, wasn't there a rate war on? A. Where to?

Q. North Atlantic? A. February, 1907?

Q. Yes. A. I don't think so.

Q. Do you know the date of the conference agreement so often referred to in this suit is February 5th, 1908. Didn't that agreement follow a prolonged rate war of several years? A. From our records of the Russian Volunteer Fleet we charged in February, 1907, the same as we charged in July, 1906, the same rate, \$37 to Libau and \$30 to Rotterdam. There was no change to the following June.

2472

Q. Well, that is not enough to base a statement as to whether there was or was not a rate war on? A. I can't tell. I can only go by our figures.

Q. Well, but your recollection must enable you to say that the conference agreement of February, 1908, to which some of your lines, I believe were a party—A. Oh, you are talking of the Italian Lines?

Q. No. A. I don't know anything about the agreement of the Continental Line. We were not a party.

Q. You have no knowledge of the North Atlantic Conference? A. No.

Q. The lines that you represented were not in that conference at any time? A. No, sir.

Q. And you do not happen to remember what the conditions of steerage traffic were in the North Atlantic in the year 1907? A. No, sir.

Q. Have you ever visited the control stations in Germany? A. No, sir; passing through Eydtkuhnen several times.

Q. Is that on the border, next to Russia? A. Yes.

Q. It is a German town on the frontier? A. Yes.

Q. You passed through it and did not visit the control station? A. Yes.

Q. And never have visited it? A. No, sir.

2474

Q. All the testimony which you gave this morning to what happened at the frontier cities or at the frontiers of Germany and Russia is pure hearsay, is it not? A. Hearsay and letters.

Q. I understood you to say that you had some conferences with Mr. Straus about the conference. Did that relate to agents, exclusively? A. No, it related to rates also.

Q. And the rates were too low or too high. What was it? A. He thought the rates were too high.

Q. And you thought not, I suppose? A. I thought not. I thought I would give more commission and reduce rates.

2475

Q. And he wanted you to proceed against the lines? A. Yes.

Q. Did you do so? A. No, sir; threaten him—

Q. Did he want you to proceed or threaten to proceed? A. Wanted to proceed.

Q. You were satisfied to threaten and not proceed? A. Yes.

By Mr. Bullowa:

Q. When you fixed the rates of the Russian Volunteer Fleet were the rates fixed in New York or by cable from abroad? A. By us.



*Oscar L. Richard*

2476

Q. Do you think they were reasonable?

Mr. Dorr: I object.

A. Originally, yes.

Q. When they were very much lower you thought they were unreasonably low, when they got down to \$20? A. We had to follow with the others or else get no business.

Q. You thought there was no harm for you in the Russian East Asiatic Line to get into a small conference together and against the other conference?

A. Get into a conference?

2477

Q. Your combining with Mr. Straus? A. The only thing we objected to—we didn't care whether the other lines appointed our agents. We had no objection to the other line appointing agents so long as they didn't take our business away. We had no conference.

Q. Didn't you have an agreement regarding rates?

A. No.

Q. Were not the East Asiatic Company's and your rates the same? A. The what?

Q. Were not the rates of the East Asiatic and of the Volunteer Fleet always the same? A. I don't know. I can tell you what my rates were. We consulted at different times.

2478

Q. If they were the same it was on some coincidence, wasn't it? A. I suppose so. It depended upon what steamer ran against it. Sometimes a steamer would run against a competing steamer and he would have to put the rates down to what the competing steamer charged.

Q. The Volunteer Fleet went out with full cabin and full steerage? A. Not full steerage. I think we got a fair share, I think we had better than any other conference line.

Q. And notwithstanding that you thought the conference ought to give you their agents too? A. Yes.

Q. You thought that would be fair and reasonable?

A. Yes, because it was the intention of the Volunteer Fleet to have a weekly service instead of a semi-monthly service. We wanted to get more steamers.

By Mr. Dorr:

Q. Did you regard the methods used by the conference lines as fair competition against your line?

Mr. Beers: That is objected to, the witness's views on the subject are not evidence.

2480

A. No, sir.

Q. In what respect did you regard it as unfair competition? A. In preventing conference agents from representing the Volunteer Fleet? That was my sole objection to it.

Q. Did you regard it as unfair for the conference lines to agree to designating one particular ship of some line and to put it on a sailing basis with your ships?

Mr. Beers: Same objection.

A. Yes, my sole objection was regarding Rule 9. In case they revoked that Rule 9, I agreed to raise rates and maintain commissions and follow the rules of the conference.

2481

Q. You were willing to do anything in those lines so long as you would have an equal opportunity with them to have your tickets sold by the agency system which you had built up? A. Yes.

Q. And you did build it up, did you not? A. Yes.

Q. At your expense? A. Yes.

Q. And Mr. Bullowa has spoken about this agency system being built up at considerable expense. Wasn't that the expense of the agents and not the steam-

2482

ship line? A. The steamship line had to pay for the travelers to go around the different towns and appoint agents and look after them.

Q. That was the only expense you were put to in the matter? A. That is the chief expense; the others were merely postage and letter writing.

Q. Now, what is your test of a reasonable rate, Mr. Richard, for steerage traffic? A. Well, I should say according to the speed and tonnage of the steamer and the distances they travel, I should call it from \$30 to \$45.

2483

Q. You misunderstand my question; I ask to have it stricken out. You have used the phrase "reasonable rate;" what is your test of what is a reasonable rate, and what is an unreasonable rate? A. My test is according to the dividends the different companies pay. Last year and the year before when the rates were about \$35 to \$40, they paid five per cent or six per cent dividends.

Q. Did you take into consideration the money earned on freight business? A. Yes, sir, total business for the year.

2484

Q. How do you determine whether or not the freight rates are unreasonably low and the steerage rates are unreasonably high? A. Judging by the rates charged by the Lloyd Italiano which I represent, both for passage and for cargo, they have been higher than in a long while and all they paid last year was five per cent to the stockholders.

Q. Is that dividend paid out of the freight earnings or out of the passenger earnings? A. Out of both combined, the result of the years workings.

Q. How much of that dividend is paid by freight and how much by passenger, do you know? A. No, sir.

Q. Well, how can you determine then whether or not the passenger rate is reasonable and the freight

rate unreasonable? A. If they carried no freight the rates would have to be very much higher.

Q. I know, but how do you know that the freight rates are not unreasonably low? A. Because I know they are not low.

Q. You regard the freight rates as high? A. Well, they are reasonable at the present time.

Q. How much of the earnings of the company should come from the passenger business and how much should come from freight business; what is the test? A. That is entirely relative.

Q. What? A. Sometimes the steamer will carry one hundred passengers and sometimes it will carry twelve hundred or more. 2486

Q. Well, how much of the earnings of the company— A. You have to take the whole year together.

Q. How much of the earnings which were devoted to dividends and from which dividends were arrived at in your opinion, should come from passengers and how much from freight? A. I can't answer that; have to take the whole year's workings.

Q. Is there any test; what is the test to your mind then of reasonableness of the steerage rate; returns of the company are made up from first cabin, second cabin, steerage and freight, are they not? A. Yes, sir. 2487

Q. Now, how do you determine what proportion of the earnings freight should contribute and what proportion the third class business should contribute and what proportion first class business should contribute? A. That has to be determined by the average of the year previous.

Q. In other words, you merely look to the rates in the previous year and to the results reached by them? A. The what?

Q. The results reached by them and then if there is not more than a certain dividend, you say the rates

*Oscar L. Richard*

2488

are unreasonably low, and if there is more than a certain dividend, they are unreasonably high? A. Yes, sir.

Q. Do you know what dividends the White Star Line paid? A. No.

Q. Do you know what rates, it charges for North Atlantic business? A. No, sir.

Q. You don't mean to say then that for the White Star Line for instance that these steerage rates are reasonable rates, do you Mr. Richard? A. I don't know anything about their rates.

2489 Q. You have no information as to the cost of their doing business? A. No, I have not.

Q. Have you any information as to the profits which are made from the steerage business? A. No.

Q. You have no information from which you can judge whether or not the steerage rates charged by the White Star Line are or are not reasonable? A. The only thing when they have excessive dividends, everybody knows it.

Q. Do you know what the cost of doing the steerage business of the Holland-Amerika Line is? A. No, sir.

Q. Do you know what proportion of their earnings comes from their steerage business? A. No, sir.

2490

Q. Have you any basis on which you can determine whether or not the rates charged by the Holland-Amerika Line are or are not reasonable? A. No, sir.

Q. Do you know what the expense of doing the steerage business is for the Hamburg-American Line at the present time? A. No, sir.

Q. Do you know what their profits are? A. No, sir.

Q. Have you any basis then for determining whether or not the steerage rates charged by the Hamburg-American Line are or are not reasonable? A.

I am under the impression that I read their dividend was eight per cent.

Q. But that dividend is derived from the first cabin business, from the freight business, the second cabin business, is it not all combined? A. All combined.

Q. It may be that the first cabin rates or the second cabin rates are reasonably low for the service and the third class rates are unreasonably low and the company may be paying that dividend almost entirely out of steerage business so far as you know, isn't that true? A. No; I know they could not pay it out of steerage business alone.

Q. In other words, the steerage business is not a sufficiently important part of the business, or sufficiently large part of the business? A. It is a very important part of the business.

Q. It is a very important part, is it not, a very profitable part? A. Under the rates.

Q. At the present rates? A. Freight rates at present.

Q. Very profitable? A. I don't know very profitable, no, not very profitable—profitable.

Q. Do you know the cost of doing the steerage business at the present time for the Hamburg-American Line? A. I have nothing to do with the Hamburg-American.

Q. Do you know their income from the steerage business? A. No, sir.

Q. Do you know what their actual capital invested in that business is? A. No, sir.

Q. Are you able to state whether or not the returns from the steerage rate are or are not more or less than a fair profit for the capital used in that part of their business; you have not any information on that, have you, Mr. Richard? A. I have no information on it, no, sir.

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2493

Q. Take the Cunard Line; I will ask you the general questions, have you any information as to the cost of doing the North Atlantic steerage business? A. None but the Lloyd Italiano.

Q. That is not engaged in the North Atlantic Steerage business? A. No, sir.

Q. Have you any information as to whether or not the actual capital of the various companies engaged in the North Atlantic steerage traffic is or is not equal to their stock issues on which dividends are paid? A. I have no information, no, sir.

2495 Q. The Hamburg-American Line and the North German Lloyd and the Cunard and the White Star, are all members of the same Conference that your line, the line you represent, are members of, are they not?

Mr. Beers: Objected to as incompetent and immaterial and not within the issues.

A. Yes, sir.

Q. They are all parties to an agreement, are they not, as to the division of the Mediterranean traffic?

Mr. Beers: Same objection.

A. I don't know.

2496 Q. What is your information on that point? A. I saw the agreement of 1899, but I have not seen it since and I don't think the White Star Line was in that agreement.

Q. Was the International Mercantile Marine Company in it?

Mr. Beers: Are you enquiring about "AA" now?

Mr. Dorr: I am enquiring whether the parties to "AA" or certain of them were also parties to an agreement as to the Mediterranean traffic.

Mr. Beers: Then I renew my objection.

*Oscar L. Richard*

2497

The Witness: I don't think so.

Q. Do you recollect whether or not they became parties to it thereafter? A. I couldn't say, I don't think they did, because they were a northern line, don't go to Italy.

Q. Have no Italian ships? A. No, have no ships to Italy.

Q. Did they at any time run ships in the Italian service? A. International Mercantile Marine? Nothing but the White Star Line, the White Star Line ran to Italy.

Q. It is running now? A. Yes, always did.

Q. Are you sure they are not parties to the agreement at the present time? A. I do not know whether they are or not. The agreement was made on the other side and I took very little interest in it.

Q. I understood you to testify in answer to a question by Mr. Bullowa, or rather Mr. Bullowa asked you the question as I recall it—is not the commission paid by the railroads, but their rates fixed by law, and I understood you to assent to that proposition. Do you know of any such law that fixes the commission paid to railroad agents? A. I understood him to say rates.

Q. I think the record will show that it was a commission.

Mr. Bullowa: No, the rates were fixed.

2499

Q. You know of no law that fixed the rates paid to the— A. Oh, yes, the Interstate Commerce Commission fixes the rates.

Q. Fixes the rate of commission? A. No.

Q. The railroad rate? A. Yes.

Q. There is no law so far as you know, which in any way regulates the commission which is paid by the railroads to their agents? A. No, sir.

Q. Did I understand you to say that the Interstate Commerce Commission fixed the rates of railroads?

A. So I always understood, yes.



*Oscar L. Richard*

2500

Q. So that the rates which are made by the railroads to the company, according to your information, are fixed by the Interstate Commerce Commission? A. They have to be so; I understood always that they were fixed.

Mr. Burlingham: Ultimately they are, aren't they? They are unfixed if they are wrong.

Mr. Dorr: I am trying to ascertain what the witness really knows about this matter.

2501 The Witness: What I meant was they are regulated by the Interstate Commerce Commission and the rates are filed with them.

Q. All that you mean is the railroads file with the Interstate Commerce Commission public rates? A. Yes.

Q. Do you recall, Mr. Richard, whether or not you called it to the attention of the Conference Lines the ruling of the Interstate Commerce Commission that the traffic agreements between the railroads while not within the pooling section of the Interstate Commerce Act was in restraint of competition?

Mr. Beers: Objected to as incompetent and immaterial.

2502 A. The only thing I remember is the report of the Conference lawyers in which they said that the Interstate was—

Mr. Spooner: That is not proper.

Q. What I am asking is whether you—don't you recall writing a letter to that effect, Mr. Richard? A. My recollection is that the Interstate Commerce Commission ruled that the agreement of the Western Passenger Association with the steamship lines was undoubtedly in restraint of competition.

Mr. Spooner: When was that statement made.

The Witness: I don't know the date, but I believe at the time that the railroads submitted all of the agreements to the Interstate Commerce Commission.

Mr. Dorr: That is the agreement by which the traffic was to be divided among the railroad companies by which the steamship companies were to insure the division of the traffic among the railroads, that is the matter to which you refer, is it not?

The Witness: I don't think so; it is not my impression.

Q. Do you know what the actual capital invested by the Lloyd Italiano is? A. Yes, sir.

Q. Do you know the actual physical value of the ships of that line at the present time? A. No, sir.

Q. Are you familiar with the returns from the freight of that line? A. No, sir.

Q. With the expense of handling the freight of that line? A. At this port?

Q. Yes? A. Yes.

Q. On the other side? A. No, sir.

Q. Do you know what is paid for coal for that line? A. Yes, sir, on this side, yes, sir.

Q. What do you pay for coal? A. \$3.25 a ton, and we take coal for the round trip.

Q. Is that a higher rate than has prevailed up to recently? A. No, sir.

Q. Have you been paying that for the last six years? A. That is the price of the Irwin & White coal, the best class of coal.

It is agreed that the taking of testimony by the Government shall not extend beyond Wednesday, the 3rd inst., at this time, but that counsel for the defense will produce, so far as they are able, documents called for by the Government at the Government's convenience, within the next week or two, the Government reserv-

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ing the right to produce such further witnesses as they may deem advisable and proper at the September hearing, and the counsel for the defence agrees to grant the Government such extension of time in the taking of proofs as the Government may request.

Mr. Dorr: Then we will resume on or about September 1st, and after tomorrow adjourn until the 9th of July at 2 o'clock P. M.

By Mr. Burlingham:

2507

Q. Your experience of forty years in the steamship business has not been confined exclusively to the passenger business, has it? A. No, to cargo business as well.

Q. You represented some lines as general agent and you have represented some lines as passenger agent, have you not? A. Yes, sir.

Q. And when you undertook to say that the rates charged by the Conference Lines were reasonable, were you basing that statement at all upon your experience as a steamship man? A. Yes, sir.

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Q. And while it is quite true that you know nothing about the internal arrangements of the cost of operating the Hamburg-American Line, you do know something about the cost of operating your own lines, don't you? A. I know the cost of operating them from this side.

Q. Do you know the capitalization of the lines you have represented? A. Yes, sir.

Q. Do you know the dividends that they have paid? A. Yes, sir.

Q. And have not paid? A. Yes, sir.

Q. You know the cost of equipping, victualling and supplying a vessel, don't you? A. Approximately.

Q. Is there any material difference between the operation of a steamer by way of Gibraltar to the Medi-

terranean, than to Continental ports in the North Atlantic? A. Because the coal is higher in Italy than it is in the North Atlantic.

Q. It is customary for you apparently to coal your vessels here for the round trip? A. Generally.

Q. The voyage is somewhat longer by the Mediterranean? A. Yes, sir.

Q. The cost of feeding steerage passengers, the cost of feeding members of the crew, wages, and so forth, is easy enough to calculate from one to the other, isn't it? A. Yes, sir.

Q. Making such differences as the different character of food, &c., called for, is that right? A. Yes, sir. 2510

Q. In ascertaining the cost of carrying third class passengers, steerage passengers, is it proper to exclude all consideration of the cost of coaling, manning, officering, supplying the ship and confining one's consideration to the steward's department? A. No, sir.

Mr. Dorr: I object to that on the ground that it is not material to anything on re-direct.

Mr. Burlingham: That is what Mr. Thomas stated.

Mr. Dorr: I object to that also.

Q. I suppose the most reliable thing for a steamer 2511 is to carry a good number of first cabin and third cabin passengers and a full cargo? A. Where they have the proper accommodation for first cabin, some steamers carry only emigrants and cargo.

Q. Now, with the very marked difference in the number of passengers carried at different sailings at different times of the year, it is impossible to determine the cost *per capita* for carrying steerage passengers by any one passage, I suppose? A. Yes, impossible.

Mr. Dorr: I object to that; it may be impossible for this witness.

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Q. It has to be done by averages? A. At the end of the year.

Q. And running over a considerable period of time?

A. Yes, sir.

Q. And in the same way, I suppose, in order to calculate with any degree of fairness the cost of carrying passengers, one would have to ascertain what the average quantity of cargo carried was, and what the average number of first cabin passengers were, if any were carried? A. And second cabin.

Q. And second, too, that is true, is it not? A. Yes, sir.

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Q. I understood you to say in answer to Mr. Bullowa to carry steerage passengers across the Atlantic at \$20 was not a fair reasonable charge? A. According to my experience, yes.

Q. You base that on your experience, don't you?

A. Yes, sir.

Q. And I understood you to say in answer to Mr. Dorr that to carry such passengers that a reasonable rate for such passengers would be from \$30 to \$45, dependent on the character of the steamer? A. Yes, sir, and the length of the voyage.

Q. By character of steamer I mean the speed and the accommodations, is that it? A. And the tonnage.

2514

Q. Is it on these considerations that you base your statement that the charges for the transportation of steerage passengers by the Conference Lines are reasonable? A. Yes, sir.

By Mr. Dorr:

Q. How much do you allow for service of stewards in your estimate of \$30 as a reasonable fee? A. I don't know what pay they get.

Q. You don't know what pay they get? A. No, sir; paid on the other side.

Q. How much have you allowed for pay in the engine room? A. I don't know; engaged on the other side.

Q. How much have you allowed for provisions in the payment on the other side? A. I don't know what they pay on the other side.

Q. How much of your \$30 rate did you allow for profit? A. How much did I do what?

Q. How much have you allowed for profits in your \$30 and \$45 rate? A. When I say \$30 to \$45 I am judging by previous rates, that were lower when the companies were unable to pay dividends.

Q. The only test that you have then is whether or not the company did in fact pay dividends at a time when a certain passenger rate was in force, is it? A. That is right. 2516

Q. It is not true that the reason that the company did not pay dividends at that time might have been due to the fact that they did not have a good passenger business, or that they did not have a good freight business, or freight rates were unduly low, isn't that the true reason? A. We have steamers that have only twelve cabin passengers.

Q. Answer my question; the reason why dividends were not paid at that time may have been due to the fact that the freight business was poor, that freight rates had been cut, or that the first cabin business was poor in the case of those steamers where first cabin passengers were carried? A. Only partly true; some passenger steamers ought to carry two or three hundred tons of freight, or it really doesn't count very much. 2517

Q. Well, now, have you the figures for the cost of steerage passengers for the various ships of your line? A. The various ships?

Q. Yes? A. I have the eastbound, yes.

Q. And the cost of carriage of those passengers? A. I have the eastbound, yes.

2518

Q. And the cost of carriage of those passengers?  
A. It is easy to make up the westbound, too, because the price is fixed, the limit price is fixed by the Italian Royal Immigration Commissioner; they fix a minimum price; that is about \$40.

Q. That merely gives you the gross returns? A. That is the gross returns.

Q. Have you got the cost of your ships on its various voyages of the steerage business? A. I haven't got it here, no.

Q. Have you got it at your office? A. No, sir.

2519

Q. You have no records here which show the extent of the steerage business and the profits made therefrom? A. I have got a record of the passenger business for the year 1911.

Q. What is the total gross receipts? A. Of the business done in America?

Q. Yes, the total gross receipts? A. No, gross, less expenses.

Q. Have you those expense items? A. Just a copy of the report that we made.

Q. For what year is that? A. 1911 was the last.

Q. You have a statement showing the gross receipt from the— A. Eastbound business and prepaid business.

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Q. The expenses? A. And the proportion of the expenses.

Q. What do you mean by the proportion of the expenses? A. Well, the proportion according to the amount that was taken in, so much was taken in for business done in America and so much on the other side, and the expenses were proportioned according to what was taken in in America.

Mr. Dorr: Suppose you produce them tomorrow.

Mr. Bullowa: I have a question.

*Oscar L. Richard*

2521

Mr. Dorr: I have not completed my examination.

Mr. Bullowa: I thought you had.

By Mr. Bullowa:

Q. Mr. Richard, you don't mean to say that the Volunteer Fleet built up any agencies, do you, you meant C. B. Richard?

Mr. Dorr: If we are going into another matter I would rather have it go over until tomorrow.

Hearing adjourned to Wednesday, July 3rd, 1912, at 10:30 o'clock A. M. 2522

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UNITED STATES DISTRICT COURT,  
SOUTHERN DISTRICT OF NEW YORK.

<p>UNITED STATES OF AMERICA, Petitioner, against HAMBURG-AMERIKANISCHE PACK- ETFAHRT - ACTIEN - GESELL- SCHAFT, and Others, Defendants.</p>	}	<p>Before Charles E. Pickett, Esq., Examiner. 2523</p>
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New York, July 3rd, 1912.

Hearing resumed pursuant to adjournment.

Appearances:

Henry A. Wise, Esq., Goldthwaite H. Dorr, Esq.,  
Henry A. Guiler, Esq., John S. Bradley, Esq., John  
W. H. Crim, Esq., for the Petitioner.



## C. C. McCain

2424

Messrs. Burlingham, Montgomery & Beecher; by Charles C. Burlingham, Esq., and Norman B. Beecher, Esq., for the Anchor Line, Ltd., *et al.*

Messrs. Choate & Larocque; by Nelson Shipman, Esq., for Norddeutscher Lloyd, *et al.*

Messrs. Spooner & Cotton; by L. C. Spooner, Esq., for the Allan Line, *et al.*

Messrs. Lord, Day & Lord; by Lucius H. Beers, Esq., and Allan B. A. Bradley, Esq., for the Cunard Line, *et al.*

Ralph J. M. Bullova, Esq., and Walter Rogers Duell, Esq., for Russian East Asiatic Co., *et al.*

2425

C. C. McCAIN, sworn on behalf of the petitioner, testified as follows:

*Direct-examination by Mr. Crim:*

Q. Mr. McCain, what is your business? A. Chairman of the Trunk Line Association.

Q. Where are you located? A. 143 Liberty Street, New York.

Q. What is the Trunk Line Association?

2426

Mr. Beers: In order to save time and not to encumber the record by repeating objections, I wish now to renew my general objection made when Mr. Sandford was on the stand. I object to any evidence with reference to inland transportation, to any railroad passenger association or any understanding or agreement between any railroad, railroads or railroad association and any steamship line or lines, or with reference to commercial allowances, upon the ground that any such evidence is incompetent, irrelevant and immaterial, and not within the issues. May it be understood that this objection will not be repeated?

Mr. Crim: Certainly, that is understood.

A. It is an association of various railroads operating out of New York, Philadelphia and Baltimore, known as the Trunk Line Traffic Association.

Q. How long have you been in the railroad business, Mr. McCain? A. In one form and another since 1877.

Q. Are you familiar with what is known as the commercial allowance on immigrant traffic? A. Yes, sir.

Q. Will you state what it is and how it arose and its history? A. Well, I don't know that I am competent to very accurately state its history.

Mr. Spooner: Don't what?

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The Witness: Competent to very accurately state its history. I have been generally informed that back in the earlier days, say 1882 or 1883, or possibly earlier, the plan of paying commissions on immigrant passengers was in vogue; that the amount of those commissions fluctuated from time to time, based on the competitive conditions, until more recent years it has become staple, so to speak, and uniform.

Q. In this period that you speak of, 1882, have you any idea what were the amounts of those commissions as they fluctuated? A. I don't know accurately; I only know from general knowledge that it has been stated that in those days the commissions would fluctuate from ten, fifteen, twenty and thirty per cent.

2429

Q. The earnings of the railroads? A. Yes, I assume that was the earnings of the railroads.

Mr. Bullowa: He doesn't mean earnings of the railroads.

The Witness: I understand what you mean, the fare.

By Mr. Bullowa:

Q. You didn't mean the earnings of the railroads?  
A. That is, this competition was probably between

2530

*C. C. McCain*

western lines, among themselves, and to some extent between eastern lines. The commissions were paid from various sources by railroads. I don't infer that that percentage stated was the percentage necessarily to what the trunk line might have been paying, but it might have been paid by their connections or western roads or some way. I only know in a general way that in the early days it was understood to be fluctuations in the commission.

By Mr. Crim:

2531

Q. I understand you to say that commissions were not only paid to steamship companies on this traffic, but the commissions were also paid to connecting railroads? A. No, I mean to say that the commissions stated might have been paid by the trunk lines, in whole or in part to the steamship companies or the western roads, west of the trunk lines, might have paid something in addition to the trunk lines and in that way the total commission might have gotten to those higher amounts, in strenuous competitive times.

2532

Q. Well, subsequent to this time in the 80's, what happened with respect to these commissions? You intimate that they have not fluctuated so? A. Well, the standard commission paid, so far as I know, by the trunk lines a great many years has been a fixed percentage of the inland fare, ten per cent, but I think that began in 1886; I am not sure.

Q. How was that brought about? A. Well, it was brought about by the desire on the part of the railroads to have their fares in more orderly shape.

Q. More staple rates? A. And bring it down to what I assume at that time was determined to be a reasonable compensation for that service. It had formerly been, I think, at some period, five per cent, in the old days. I am not sure, and in these fluctuating—

Q. Was this result brought about by the various

railroad associations, western passenger, central passenger associations and trunk lines? A. Well, I am not clear as to the participation of the western association in this arrangement when the uniform basis of ten per cent was adopted. I don't know as to that. I do know that the Trunk Line Association—I think it was about 1886 this ten per cent arrangement became common. What the Western Passenger Association or the Central Association did at that time I am not informed.

Q. Well, in any event, various agreements were entered into between the railroads and the steamship companies with respect to this allowance? A. Well, I don't know as to the earlier days, in 1886.

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Q. Well, later days? A. Whether there was actually an agreement, but the commission was at least prescribed by the railroads and the probabilities are that it was arranged from conferences with the steamship people. I am not sure as to that.

Q. Now, Mr. McCain, on what traffic do the trunk lines pay commission today? Does the trunk line pay commissions on immigrant traffic today? A. Yes, sir.

Q. What kind of immigrant traffic? A. There is only one kind of immigrant traffic; immigrants as such.

Q. And does it pay a commercial allowance? A. It is so termed. 2535

Q. On all immigrants that pass through what is known as the trunk line territory? A. All immigrants coming to this country, the commercial allowance is uniformly paid to all destinations on the immigrant fares.

Q. Now, Mr. McCain, isn't it a fact that the trunk lines do not pay any commercial allowance within the zones known as the \$2.50 territory for westbound traffic?

*C. C. McCain*

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Mr. Spooner: Object to that question; object to the form of the question as leading.

A. I think your point is that we do not pay a commission to points where the inland fare is less than \$2.50; that is correct.

Q. Do you pay commissions on the traffic originating in trunk line territory, going eastward? A. No, sir.

Q. Do you pay any commissions on first class passenger traffic? A. No, sir.

Q. From steamships? A. No, sir.

2537 Q. Neither eastbound or westbound? A. No, sir.

Q. The immigrant purchases transportation from a point in Europe to an interior point in the United States, beyond trunk line territory, produces at the railroad station at Ellis Island an order for the rail transportation, does he not? A. Yes, sir.

Q. Now, is that order directed to the agent of a steamship company at Ellis Island? A. It is drawn on the Ellis Island agency.

Q. For the steamship line? A. Yes, in accordance with the provisions in our tariff.

Q. Then it is viséd by him and presented to the railroad agent? Presented to our joint ticket office at Ellis Island.

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Q. How long has that been the practice? A. I really don't know the exact time. I don't know whether it began in 1886 or not, when the original arrangement was made. I am inclined to think about that time this general plan was inaugurated; I don't recall the exact date. It has been in existence ever since Ellis Island has been an immigrant place, I think, is it not?

Q. Has there been any change in the handling of this traffic at Ellis Island during the past five or six years in so far as the ticket or orders are concerned?

A. I think not.

Q. Now, if the immigrant has a ticket upon his arrival at Ellis Island, for an interior point and decided not to go to that point, do the railroads pay the commission to the steamship companies or a commercial allowance on that ticket? A. I think not; they should not.

Q. As a matter of fact the steamship companies deduct the commission from the immigrant, do they not? A. I don't know; you mean if the immigrant would wish his money refunded, that is, not having taken the inland journey?

Q. Yes? A. I don't know what they would do in that case.

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Q. What is your information with regard to that? A. I have heard of one or two instances where they have deducted the commission and claimed they were only entitled to return to the immigrant the inland fare, less the commission.

Q. So if the immigrant held a railroad fare to Chicago, the steamship companies would deduct \$1.50? A. They might; I don't know whether they do.

Q. Refund the immigrant's \$13.50; do the railroad companies apportion the eastbound traffic on immigrants? A. The trunk lines do on certain arrangements at Chicago, I understand; I don't understand that the apportionment is in the hands of the railroad.

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Q. In whose hands is it? A. I believe there is some understanding as between the steamship people and the roads leading east from Chicago, under which the representatives of the steamships undertake to apportion the business as between the railroads.

Q. Equitably? A. Equitably; I don't know the details of the arrangement.

Q. Upon arrival at Ellis Island on the westbound traffic, how are the immigrants apportioned among the railroads? A. The basis for the apportionment is an

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equal division as between the eight roads which are members of the joint agency at the island.

Q. And on whom is the expense to bring those immigrants to the railway station? A. After they have passed the examination at Ellis Island, they will come into the custody of the railroads and our agent and his representatives arrange for their routing and they and their baggage are then taken to the respective roads in charge of the agency employee.

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Q. Each immigrant having in his possession an order over one or over any one of those routes? A. No, the order is on the Ellis Island agency.

Mr. Beers: Agency of the railroads?

The Witness: Yes, sir.

Mr. Spooner: Joint association?

The Witness: No; all of the railroads of the trunk Line Association are not parties to this arrangement. I will give you our exact expression if I can find it (referring to a paper).

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Q. Does the immigrant, as a matter of practice, use or have any discretion in the route that he travels over? A. It is a very small proportion; I wouldn't know what percentage; but what it is I wouldn't say one per cent of the immigrants whose tickets are presented at the agency have any information or idea as to what route they wanted to go by; they do not make a selection.

Mr. Beers: You mean very few do have an idea?

The Witness: Practically none; I said one per cent, in order to not overlook all, make any selection of the route; you might put that not over one per cent.

Q. Is it the invariable custom to route this traffic in accordance with the wishes of the immigrant? A. When they are made known to the agency, yes, sir.

Q. But as a matter of practice only a negligible percentage ever make their wishes known? A. Correct.

Q. And as a matter of fact they are not asked, are they, Mr. McCain?

Mr. Bullowa: I object to that as leading.

A. I don't know.

Q. I understood you to say a few moments ago they didn't know where they were going? A. Well, you asked me if that is true. My understanding is that practically all of the immigrants are not informed as to what railroad will take them to their destination; that therefore they make no inquiry or have any—apparently have any interest in how they shall be routed.

Q. You take it that it is not a part of the practice of the steamship lines and the railroads to place before the immigrants the various routes over which they may travel? 2546

Mr. Bullowa: The same objection; that is certainly not one of our witnesses.

Mr. Crim: No, he is my witness.

Mr. Bullowa: Then why do you lead him?

Q. Well, Mr. McCain, state to us what the practice is with regard to giving these people their routing?

A. I couldn't speak as to the practice of the steamship company.

Q. Any conversations, if any, that were had with them? A. I don't know; I really don't know to give the current handling of the passengers if there is any conversation with them at Ellis Island, with respect to their routes. Our tariffs show very plainly, well, not in all cases the routes, but indicate the routes, I think. I don't know what the practices are of the steamship companies in enlightening the immigrant, and I don't believe the representatives of the railroad ask each immigrant if they would like to select their own routes; if they did, Ellis Island would be congested every afternoon for three weeks. 2547

Q. Now, in the payment of this commercial allowance, the railroads have organized clearing houses



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adjusting the apportionment of those payments? A. We have a clearing house in connection with this agency, which is part of the Trunk Line Association.

Q. And do the western roads have a clearing house?

A. I understand they do; it is part of their passenger association, I believe.

Q. And the Central Passenger Association? A. I assume so, yes, sir.

Mr. Spooner: Will you kindly repeat that?  
(Answer read.)

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Q. Have you at any time made any recommendations to the railroads, told any of the representatives of railroads what your position was with respect to those payments?

Mr. Bullowa: I object to that as immaterial. I cannot see what his recommendations would have upon the question.

A. I presume I have expressed myself from time to time, yes, sir.

Q. And what has been the nature of those expressions?

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Mr. Beers: Objected to as plainly immaterial.

Mr. Crim: He is one of the officers that has to do with this and it is shown here that he is an expert.

Mr. Spooner: Well, what of it; what has it to do with this case, the issues made by the pleadings?

Mr. Crim: Answer the question.

A. Well, such expressions that I have made have been to the effect that in my own opinion the commercial allowances might well be discontinued.

Q. Mr. McCain, have you had occasion to discuss

the commercial allowance with the Interstate Commerce Commission?

Mr. Spooner: Well, now, that is objected to.

Mr. Crim: You maintain that the commission has given its permission, express permission for the payment of these commissions.

Mr. Beers: Commercial allowance?

Mr. Crim: Yes.

Mr. Beers: Commercial allowance.

Mr. Crim: Yes.

Mr. Burlingham: We have not made any such claim. 2552

Mr. Spooner: Offered no evidence to that effect, and if the commissioner has taken any action about it, any official opinion about it, this is not the way to prove it.

Mr. Dorr: That was the precise objection the Government raised yesterday to Mr. Straus' testimony.

Mr. Spooner: Mr. Straus was being cross-examined.

Mr. Beers: That was on a different subject.

The Witness: Repeat the question, please.

(Question repeated by the stenographer.)

Mr. Spooner: Objected to as immaterial; you have to answer yes or no, if you please.

Mr. Dorr: He can answer it any way he pleases.

Mr. Spooner: No, he can't.

Mr. Crim: Answer it yes or no, then explain your answer.

A. Yes.

Q. What were you informed by the commissioner as to whether it was lawful or unlawful? 2553

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All counsel for defendants object.

Mr. Spooner: As incompetent and immaterial.

Mr. Burlingham: Irrelevant, calling for a hearsay opinion, on a point of law.

Mr. Crim: Point of administration, not law; the Interstate Commerce Commission is an administrative body.

Mr. Spooner: They pass on questions of law.

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Mr. Dorr: I understood your contention in your answer was that the Interstate Commerce Commission passed on questions of law.

Mr. Burlingham: We have noted our objections; let us hear the answer now.

Mr. Spooner: Conversations in the first place with the Interstate Commerce Commission as a commission is one thing; conversations with the members of the Interstate Commerce Commission is entirely different.

Mr. Dorr: Even then it is far better than Mr. Straus' rumor.

Mr. Burlingham: Even in a conversation, a judge is not always illuminating as to the law, is he?

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Mr. Dorr: When it is official he always is. Do you consent that all testimony as to any action or alleged action of the Interstate Commerce Commission be stricken out?

Mr. Spooner: No, sir; we do not.

Mr. Bullowa: Will you consent that all hearsay information be stricken out?

Mr. Dorr: We desire the Court to be enlightened by some person; he is a defendant.

Mr. Crim: Answer the question.

A. You asked if I had had any discussion with the Interstate Commerce Commission on the question of

commercial allowance, as I understood you; I said I had. Well, I think that should be qualified to the exact facts.

Q. You may give the exact facts? A. Which are—

Mr. Spooner: That is objected to as incompetent, immaterial and irrelevant.

A. (Continuing.) Which are that our arrangements as existing at Ellis Island were placed before the commission, the present arrangements and such expression as was made by the commission with respect to commercial allowance was to the effect that that was a matter that was in the hands of the Department of Justice. 2558

Q. Was in the hands of the Department of Justice?

A. Yes, sir.

Mr. Bullowa: How long ago was that?

Mr. Spooner: I move to strike that out as incompetent.

Q. Was any intimation given you as to what the Commission thought of the practice?

Mr. Spooner: Objected to as leading and incompetent and irrelevant and immaterial.

A. Nothing other than was contained in the communication which covered the same statement. 2559

Q. Weren't you told by a member of the Commission that a continuous paying of the commercial allowance to the steamship companies would be at your peril?

Mr. Spooner: Objected to as leading, incompetent and immaterial.

A. That was not quite the expression, that the Commission would not express itself on the matter of the commercial allowance and what we did we did on our

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*C. C. McCain*

own responsibility; that was in the hands of the Department of Justice.

Mr. Spooner: I move to strike that out as incompetent, not responsive, immaterial and irrelevant.

Q. Mr. McCain, you have spoken with respect to the routing of the westbound immigrants from Ellis Island. Do you know of any agreement between the Interstate Commerce Commission and the railroads with respect to this routing? A. I do not.

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Q. As a matter of fact there is no such agreement in existence?

Mr. Beers: I object to it as leading.

Mr. Spooner: If he does not know, he does not know, that is all.

A. I don't think any such agreement exists; I don't know what you refer to, I am sure, but I know of no agreement between the railroads and the Interstate Commerce Commission respecting the routing of immigrants.

Q. If there was such an agreement it would be a part of your duty to know it? A. I think it would.

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Q. That traffic is apportioned among the railroads, is it not, the immigrant westbound traffic? A. Yes, sir.

Q. So far as you know there is no agreement with the Interstate Commerce Commission with respect to that traffic? A. No, sir; no agreement.

Mr. Bullowa: How could there be an agreement?

Mr. Dorr: You will have to ask your own client. Mr. Straus testified the Interstate Commission had agreed to it; look at page 566 of the testimony and you will find out.

Mr. Dorr: Your witness.

*CROSS-EXAMINATION by Mr. Spooner:*

Q. What is the name of your clearing house, that is, its technical designation? A. Well, the Ellis Island Immigrant Agency is a part of the Trunk Line Association.

Q. Yes; well, is that called a clearing house? A. The agency is not, no, sir; we have another department through which the accounts as between the steamships and the railroads are handled and that has been designated for a great many years as the Immigrant Clearing House.

Q. Does that include accounts between the railroad companies themselves, parties to the arrangement? A. No, if I understand you correctly, not; it is a clearing house to collect from the steamships the moneys which they have collected for inland railroad fares and turn it over to the railroads and also collect from the railroads on their respective tickets the amount of the commissions due the steamship companies and turn that amount over to the steamship companies; that is the function of the clearing house.

Q. Now, the business of this agency and clearing house is confined entirely to the immigrant business, is it not? A. Yes, sir.

Q. When did this system originate, did you say? A. Well, I said before I am not positive, but about 1886 I think the original arrangements began for the agency.

Q. I understood you to testify—I am not attempting to give your language—that it had its origin in competitive struggle by the railroad companies for immigrant business? A. That is my understanding.

Q. It originated before the passage of the Interstate Commerce Law? A. If I am correct in 1886, yes, sir; I am not sure that I am correct; in the eighties.

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Q. What are its functions so far as the immigrants themselves are concerned, the agency? A. Referring to the agency?

Q. Well, no, any part of your machinery that has to do with the immigrants themselves? A. The agency at Ellis Island is the only part of the organization that has anything to do with the immigrants.

Q. Now, what have they to do with the immigrants? A. The railroad agency has nothing to do with the immigrants until after the immigrants have received the customary examination and as I believe they are discharged or made available to the railroad floor or facilities, for the purpose of getting their tickets and having their baggage checked; it is at that point the railroad service begins.

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Q. Of course, they are not immigrants strictly until they are admitted? A. No, that is right; then they are taken after being assigned to the respective railroads and their baggage arranged for and checked, they are taken by the transfer company under our employ from that time to the respective railroad stations.

Q. And generally looked after with reference to their safety and comfort? A. Yes, sir.

Q. And interest? A. Yes, sir.

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Q. And suppose if among the immigrants brought over to Ellis Island to be admitted to the United States there were one or more who had in mind a particular route inland which they desired to take, their wish would be observed? A. Any of them or any party who expressed a preference to any road, that their wish will be met and tickets will be furnished for that road.

Q. Now, are you able to, from your experience with railways, in the railway transportation business, to say what the condition was in respect to distribution, the handling, put it that way, of immigrants in New York was prior to the establishment of your agency? A. I think it is a matter of common knowledge that prior

to this co-operative arrangement with the railroads and the steamship companies, that the immigrant was at the mercy of a great many people in the City of New York.

Q. Was despoiled? A. So I understood.

Q. Utilized? A. Yes, in the old days; I don't know as much about it as some of the steamship people do. In the old days there were so-called boarding house runners and others who sought these people as I have understood, undertaking to befriend them and kept them in their boarding houses for various days and if they got out of New York with any more than their railroad ticket, they were lucky.

Q. Then the establishment of this Trunk Line Agency was altogether in the interest of the immigrants, was it not? A. The whole arrangement is highly beneficial and that has been recognized by the Interstate Commerce Commission, as will be found in their reports when they made an investigation of this matter, that this arrangement was probably the very best thing that could be— 2570

Mr. Dorr: I object to contents of the Interstate Commerce Commission's report.

Mr. Burlingham: Contents of the mind of the commissioner, but not the contents of the report.

Mr. Bullowa: One can be verified, the other cannot. 2571

Mr. Dorr: No objection to the original report.

Mr. Spooner: You could not object to that.

Mr. Dorr: I certainly could object to it; the Court would pass upon it.

Mr. Spooner: No you could not, because of the law, act of Congress makes it open to be read in the Court and provides it shall be taken.

Mr. Beers: Did you finish your answer.



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*C. C. McCain*

Mr. Spooner: Will you read the answer?  
(Answer read by the stenographer.)

The Witness (continuing): Devised for the welfare of the immigrant.

Q. One thing among others which gave it a great value was the elimination of New York middlemen, wasn't it, taking them out of the hands of runners?

A. Oh, yes.

Q. And tavern keepers and solicitors? A. Yes, sir.

2573 Q. Safeguards them, gives them proper protection from Ellis Island to the train they are to take? A. Yes, sir.

Q. I was going to ask you whether you knew or not that the immigration agency of the Government co-operated in the formation of this association agency.

Mr. Crim: That is objected to.

A. I don't know; that is, as to the original arrangements.

2574 Q. Has not been one of the effects of the creation of this agency I call it, to abolish excessive commissions which the railroad companies were formerly required to pay, prior to its inauguration, obliged to pay for immigrant business? A. The placing of the whole arrangement on an orderly basis and eliminating the competition in commission has been accomplished. I don't know that that is due to the agency proposition or the fact that the agency exists.

Q. It existed once, competition in commissions, didn't it? A. Yes, sir.

Q. Does not now? A. No.

Q. That operated to increase the revenues of the railroad companies, didn't it, to some extent? A. Well, I presume it did, not very appreciably.

Q. I will ask you to repeat the basis of the apportionment among the railroads now served by this clear-

ing house? A. An equal division as far as that may be accomplished.

Q. How many companies are members or sharers?

A. Eight.

Q. How long has that basis been in effect?

Mr. Crim: This is objected to as not cross-examination.

Mr. Spooner: It is just exactly what it is. You asked him what the arrangement was.

Mr. Crim: He told you.

Mr. Spooner: I am cross-examining him on his answer.

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A. I don't know exactly when it began.

Q. Didn't it begin last February? A. In a modified way; yes, sir.

Q. Well, it must have begun before that, in order to have been modified in February. When did it begin, relatively, I don't mean exactly? A. The percentages you refer to have been in effect a great many years; I don't know when it began, could not give you that.

Q. Well, from the beginning up to the time this fixed percentage basis was arrived at, what was the basis of apportionment among the various members of this Trunk Line Association? A. The arrangement with several roads, they were assigned a certain proportion of the first and second class passenger traffic.

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Q. That was westbound? A. Yes.

And the immigrant traffic was divided equally and the adjustment was made by the distribution of the immigrants as between the lines.

Q. What was the basis by which they arrived at the distribution? A. It was an assigned percentage to each road.

Q. How? A. It was a percentage to each road.

Q. Wasn't that fixed percentage—did not that re-

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*C. C. McCain*

late to first class business and not to immigrant business? A. I stated that.

Mr. Burlingham: He said first and second.

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Q. Did I understand you to say that there was any difference in the first and second class and in the third class? A. There was an allotment made to the various railroads, indicating their share of the first and second class passenger traffic. There was also an allotment made as between the companies of the immigrants, passengers, an equal division. The adjustment securing to the roads the proportion was made by routing the immigrants to the respective roads as was found necessary.

Q. That is, if a given road was short of its proportion of first and second class traffic, it would be made up on the immigrant, is that right? A. An equivalent portion of immigrants was given to it to equalize that deficit.

Q. Have you a tariff there? A. Not complete. I only took the first few pages because it happened to contain the rules. It was so bulky I did not bring it all.

Q. May I look at it? A. Yes, sir (handing book to Mr. Spooner).

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Q. On this tariff; on page 13 there are certain rules and regulations, of which Rule No. 9 reads as follows: "Routing of orders and cash sales. Orders issued under this tariff must not be routed. Where passengers held orders or pay cash for immigrant tickets, the selection of routes from the ports of New York, Philadelphia, Baltimore, Boston, New Bedford, or Providence to destination shown herein shall be a matter for determination exclusively between the immigrant agent mentioned in Rule 11 and the passengers themselves and only at the time the passengers present their orders to pay cash to the immigrant agent named

for the tickets." That is the rule, is it not? A. Yes, sir.

Q. The rule today? A. Yes, sir.

Q. Is that or is it not a beneficial rule to the immigrant?

Mr. Dorr: I object to the witness's characterization of it.

A. A beneficial rule to the immigrants? I don't know how to explain that. We considered that it is simply a provision by which they can buy their tickets through for cash if they want to. That is the method.

Q. I am speaking of the routing, whether or not it is beneficial for the immigrant? A. That rule, as I understand it, refers to the routing only in instances where the immigrant pays—buys the cash ticket. 2582

Q. Then, that is disjunctive? A. Where he buys the cash ticket and does not present a routing order.

Q. These are published rules, are they? A. Yes, sir.

Q. And were these rules submitted to and approved by the Interstate Commerce Commission? A. I don't know whether they were approved, they were not disapproved.

Q. How long have they been in operation? Is this a new rule? A. I don't recall whether it is or not; I don't think it is. 2583

Q. How long has that Rule No. 9 been in operation, can you tell? A. No, sir; unless I compared it with the previous tariff. I do not know whether it is new, or modified to any extent, by this recent tariff which was issued. The previous tariff was very old, about five years old.

Q. Well, this rule has been in effect, has it not, for many years? A. I think so, I am not sure. I don't know whether there has been any change in that rule, but I think not; I think it was in the old tariff. This

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tariff is new. The previous tariff was changed five years ago, I think.

Q. What other Immigration Associations are there in connection with the transportation of immigrants from New York to the interior points? A. No other association. There are some independent railroads which have their agencies, like the Canadian Pacific, and the Old Dominion Steamship Company.

Q. There is a Western Association, is there not? A. Yes; there is a Western Passenger Association.

2585 Q. Does that include immigrants? A. They have not any agency over there, not that I know of. If there is one, I do not know it. I do not know anything about their business.

Q. How is the routing done of immigrant passengers west of Chicago—if you know? A. For the moment, I do not know, unless the tariff provides for it. Whether it is at Ellis Island, I really do not know for the moment. There is some provision in the tariff, I think.

Q. Who is there connected with your establishment who would know about the details of that? A. Well, I ought to know, but I do not; I have forgotten it for the moment. If you want it, I can get it and let you know, or I think the tariff provides for it.

2586 Q. Would Mr. Hunter know about it? A. Yes, sir; he would know the details of that; yes, sir.

Q. Well, would it be entirely convenient for you to furnish the information? A. Oh, yes; I can get it for you.

Q. Out of what is the commercial allowance paid? A. Why it is paid from the treasuries of the several railroads.

Q. I don't mean that; ultimately out of what does it come? It comes out of the fare does it not? A. Why, I assume it does, yes, sir.

Q. Don't you know that it does? A. It is a percentage on the fares, and the accounting as to that is done by the different railroads.

Q. But ultimately it comes out of the fare? A. I should say that is correct, yes, sir.

Mr. Spooner: That is all.

By Mr. Beers:

Q. After they have arrived here, and immigrants have been furnished with tickets, and they have expressed a preference for any particular road, then the residue of the immigrants, who arrive here by ship, for points in the West are apportioned off to different lines, is not that so? A. Yes, sir. 2588

Q. Is that apportionment done by the lines themselves? A. By our agent at the Island.

Q. Who is appointed by the different lines? A. Yes, a representative of the lines.

Q. And in respect to those immigrants so apportioned among these lines, there is no competition as between the lines, that apportionment is made by agreement? A. Yes, sir; that is right.

Q. The steamship lines have nothing to do with that apportionment? A. No, sir.

Q. The apportionment is made, is it not, after the arriving immigrants have passed out of the charge of the Bureau of Immigration, and are officially landed? A. At the time the orders are presented for the tickets, the assignment is made to the roads. 2589

By Mr. Spooner:

Q. To what extent is the administration of the immigrant business here by your association reported to the Interstate Commerce Commission, or comes under their supervision? A. There is no reporting required of us currently, to the Commission.

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*C. C. McCain*

Q. What officer of the Government here is affected by the administration of the business by your association, and is advised of it? A. We are not called to keep any officer advised.

Q. Do not any of the Government officers keep advised as to this business of transportation?

Mr. Dorr: I object to that as he is asking for the speculation of the witness purely, unless he can show that some Government officer or official gave him information on the matter.

2591 Q. Well, you could not get a change in the tariff without the approval of the Interstate Commerce Commission could you? A. Yes, sir.

Q. You can? A. We can make the changes; yes, sir, and take the chances of the Commission disapproving of them. We can take those chances under their order of suspension. So far as Commissioner Williams is concerned, he knows what is going on, but it is not incumbent upon us to keep him advised.

Q. Well, he is kept advised? A. I don't know as he is kept advised.

2592 Q. Well, he would not know if he were not in some way advised? A. Well, we have conferred with him a good many times as to matters and he knows what is going on. We rent our quarters from him at the Island, and have more or less business together.

By Mr. Beers:

Q. The agency, which you have just testified to, is a tenant of the United States Government? A. Yes.

By Mr. Burlingham:

Q. Who is your agent at Ellis Island? A. Joseph Senter.

Q. How long has he been the agent? A. Forever, I guess—I don't know how long, but a great many years; I don't know exactly how long.

Q. He has a staff of Clerks there? A. Yes, sir; a very large staff.

Q. And is he the person who determines just what particular trunk line the immigrant shall travel on? A. Well, not entirely. He is under the direction of the main office here. We keep the accounts of the movement of the passengers, and give him his instructions as to routing.

Q. In order that we may understand it clearly, will you tell us what would happen if a ship arrived with twenty-five hundred immigrants, what would be the *modus operandi* of routing these people? A. Mr. Senter would have received his daily advices as to how the passengers were to go, and in what proportion; and he would be notified about them. Twenty-five hundred passengers if their destination was such that it would not interfere with their convenient traveling, they would be assigned to one road or the other. We cannot invariably follow the division, nor does it happen that every road always gets its equal share. There is always an excess or a deficit from one cause or another. There may be an overplus of passengers destined to such a point that the routing would be by one road and for the consideration of convenience, the immigrant might be sent by that road although that road might be at the time in excess of its share.

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Q. Would Mr. Senter determine that or would somebody else, some other body? A. He is under Mr. Hunter's direction. Mr. Hunter gives Mr. Senter his current advices as to the direction and allotment of passengers. In the absence of any special direction he would advise him as nearly equally as he could, keeping in mind the destinations, etc.

Q. When does the clearing house work come in—what you call the clearing house, as I understand it? A. When these orders are presented by the steamship



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company, at our agency at the Island, and the tickets are issued, those orders come into our possession, and those accounts are made up monthly or semi-monthly against the respective steamship companies for the money that is due to the clearing house, which they have previously collected for the railroad fare. And then they are in turn rendered a statement of the tickets, on which there is to be an allowance of a commission, and the money is passed.

2597 Q. If at the end of any such period, of a month or a year, six months or a year, as the case may be, it is found that one road has carried less than its quota, is this made good to the road, in any way? A. No.

Q. Is this righted in the future? A. Why, as to the balances as between the roads, certain roads to-day may be in excess of their share, and certain of them will have a deficit, but we undertake to equalize enough to make up this deficit; but primarily it is based on an equal division, but owing to the destination which the immigrants desire, their going by any particular road, it is impossible to always have an equal division, so that there is always a little deficit or a little excess, but as a matter of fact the division is practically equal.

2598 Q. And if there is a deficit, or an excess, it is made up in future transactions? A. By future routing of the immigrants, yes, sir.

Q. And this is the system that was investigated by the Interstate Commerce Commission? A. Well, I want to say that this particular feature of our business was investigated and the commission, as you will see by their reports, published by them, went into the whole question of the Immigrant Traffic.

Q. Including the routing of passengers? A. I am not sure whether that was investigated or not.

Q. Well, the system was an open book to the Commission? A. Oh, yes.

Mr. Dorr: I object to the form of that question.

Q. You had nothing to conceal, and did conceal nothing at that time?

Mr. Dorr: I object to the form of that question.

A. No.

Q. You have stated in answer to the district attorney that you knew of no agreement with the Interstate Commerce Commission. Did you mean that you knew of no agreement in writing, or what did you mean? A. I know of no agreement in any form. 2600

Q. It was not necessary to have any agreement? A. I don't know much about what is comprehended by an agreement between the carriers, and the Interstate Commerce Commission.

Q. Well, I did not ask you the question, the district attorney asked you whether there was any such agreement, whether you knew there was any such agreement? A. I don't know of any.

Q. The Interstate Commerce Commission has never expressed any approval of the system that is now in vogue now with the Trunk Lines, and has been for many years? 2601

Mr. Dorr: Objected to as too general.

A. Not to my knowledge. The only expression I know of is contained in their public report.

Q. And the only question apparently that has been raised between your association and the Interstate Commerce Commission has been the question of com-

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mercial allowances? A. I cannot say that any question has arisen as between the Interstate Commerce Commission and our association.

Q. You mean it was merely a conversation you had with one of the members? A. It was merely a disclosure to the commission of what the arrangement was.

Q. That is, in behalf of the association you or some member of the association or an officer of the association stated the facts frankly to this member of the Interstate Commerce Commission is that the fact?

A. Yes, sir.

2603

Q. And asked his opinion about it? A. No, we did not ask his opinion, simply informed the commission as to what these arrangements were.

Q. When was that? A. Oh, March or April, I have forgotten exactly.

Q. March or April of this year? A. Yes, sir.

Q. What member of the Commission was it? A. The chairman.

Q. And his answer was that it was a matter for the Department of Justice to attend to, is that what I understood you to say? A. That is my recollection, that was the form of the communication, in so far as it related to the commercial allowances.

2604

Q. What was it that led the association to make this provision for routing on a basis of absolute equality between the eight roads? A. Because it was considered an equitable apportionment of the business.

By Mr. Bullock:

Q. When you have spoken about the allowance or disallowance of the commercial allowance you only meant to say that the practice was that of the railroads forming the Trunk Line Association. You do not mean by that that it was railroads controlling traffic originating east or west of Chicago, do you? A.

Well, I don't know to what part of my statement you refer. I don't know what part of my statement is included in your inquiry. Did you inquire as to the early days?

Q. At the present time? A. I don't know anything about the present methods.

Q. On their allowance, the commercial allowance?  
A. At the present time?

Q. Yes, on business originating either east or west of Chicago? A. No, I don't know.

Q. Now, of course, all the railroads or steamship lines carrying immigrants, conducting immigrant traffic from New York westward are not members of this trunk line association, are they? A. No. 2606

Q. Now, then, what is the method of equalizing the immigration with those who are not members of this association, and the members of the Trunk Line Association, is there any arrangement in connection with that? A. The Ellis Island agency applies wholly to the New York roads, and this provisional arrangement is only as between the New York roads there, and other roads who are not members of the Trunk Line Association do not participate in the immigration traffic.

Q. But there are certain other lines, such as the Clyde and Old Dominion Line? A. We have nothing to do with them. 2607

Q. Have those other lines an agency in Ellis Island? A. The Old Dominion Line has.

Q. Has the Clyde? A. I am not sure; I think so.

Q. Has the Ocean Steamship Line of Savannah?  
A. I don't know.

Q. Has the Southern Pacific? A. Yes, sir.

Q. How is the immigration apportioned as to those roads? A. They are not parties to the apportionment.

Q. Are the members of the Trunk Line Association in competition with those roads as to means of egress?

A. Yes, sir.

*C. C. McCain*

2608

Q. Is that one of the reasons for the allowance of the commercial allowance? A. Oh, indirectly; yes, sir.

Q. Do you know any of the members of the Central Traffic Association? A. There are a great many roads.

Q. Where does the Central Traffic Association operate? A. Well, generally speaking at the western termini, Buffalo, Pittsburgh, Parkersburg, and westward to the Mississippi and south to the Ohio River.

Q. Do they make commercial allowance on business in their territory? A. Coming eastward?

2609

Q. Yes. A. I understand that they do.

By Mr. Spooner:

Q. Your employment is entirely for the railroad companies, is it not? A. Mine? Yes, sir.

Q. You think it would be better for the railroad companies, if they would get rid of the commercial allowance, you think they would make more money, don't you? A. That is only my personal view. I am more or less opposed to railroads paying commissions.

Q. That is your individual view? A. Only my individual view.

2610

Q. You mean that you are the only individual who entertains that view? A. Do I have to answer that?

Mr. Spooner: No, you can strike it out.

Mr. Crim: Answer the question. A. No, sir; I am not the only individual, but that is my personal view. It is very evident that the officers of the railroads do not entertain that view.

Mr. Spooner: I move to strike that out.

By Mr. Bullowa:

Q. What arrangement has the New York, New Haven and Hartford Railroad Company with the

Trunk Line Association? A. I don't know whether they have any arrangement or not. They have an agency of some sort at the Island, and get some business, but they have no arrangement through our association, as I understand it. They are not parties to our association.

Q. They do not operate in the same territory? A. No.

By Mr. Crim:

Q. What was the occasion of your transmitting this information to the chairman of the Interstate Commerce Commission, last spring, with respect to the traffic arrangements concerning immigrant traffic at Ellis Island? A. Why, about that time we revised our arrangements and methods.

2612

By Mr. Spooner:

Q. What arrangements? A. Covering the handling of the immigrant at the Island, and it was thought desirable that these new arrangements should be made known to the Commission.

By Mr. Crim: And previous to that Mr. McCain, you had heard about an investigation, or were informed as to an investigation by the Government with respect to immigrant traffic? A. Why, yes, we had heard some rumors that the Government was going to look into the matter.

2613

Mr. Spooner: I object to the word "rumors" and move to strike it out.

The Witness: But that, I had nothing to do with.

Q. Information had to come to you that subpoenas had been issued with respect to an investigation of the immigrant traffic?

Mr. Spooner: Objected to as immaterial and irrelevant.

2614

A. No, not quite as far as subpoenas were concerned.

Q. What effect, if any, did the removal of the immigration station from Manhattan to Ellis Island have upon this traffic? A. Well, I don't know absolutely, but I assume that it had the effect of concentrating the business at the Island and permitting arrangements to be made there for the comfort and welfare of the immigrants.

2615

Q. Many of the disadvantages of which you have spoken today to which the immigrant was subjected in New York, were removed when the immigration station went from Castle Garden to Ellis Island? A. Yes, sir; that is my understanding.

2616

Q. Do you know of any benefit that the immigrant received from this practice of the paying of a commercial allowance at this time? A. If the present arrangements of agency service as performed by the steamship companies throughout the interior foreign countries was interfered with that might be found to be a disadvantage to the immigrant, and it is assumed if this allowance were not made, there might be some curtailment of that service, and it seems to be an advantage to the immigrant to be able to get his tickets abroad for his entire journey; and if the arrangement as at present in effect were disturbed, why some other form of agency would probably have to be established so that the immigrant might get his through ticket; and to that extent, indirectly, it might be considered that the immigrant was benefited by the paying of the allowance for what the carriers term and consider an agency service, and which the steamship companies employ in order to furnish the immigrants with their through tickets and arrangements.

Q. Well, taking two immigrants coming from Russia to interior points in America, one going to Newark,

New Jersey, and one to Chicago. On the immigrant to Newark, New Jersey, the steamship companies receive no commercial allowance? A. No, sir.

Q. And on the immigrant coming to Chicago they do? A. Yes, sir.

Q. Now, does the Chicago immigrant receive any direct benefit because of that commission over the Newark immigrants? A. No, I think not, they are both handled alike, and are both able to get their inland transportation under the same methods.

Q. The money which the immigrant pays for his westbound transportation, in Europe, is held by the steamship companies for some time before it is paid over to the railroads, is it not? A. Well, I can't say some time.

2618

Mr. Spooner: I object to the form of that question as leading.

A. (Continuing.) I don't think it kept an unusual time. The adjustment of the amounts due are made by the steamship company within a reasonable time.

Q. I understand that there are periodic settlements between the railroads and the steamship lines with respect to this traffic? A. At least once a month.

Q. So that upon the passage of an immigrant from Germany the steamship company has the railroad's capital for some little time? A. It has the money collected from the immigrants for all fares west from New York.

2619

Q. And now, that will be quite a period of time upon a prepaid ticket from the middle west to Europe—that is a ticket that has been purchased in the middle west and sent to Europe to bring an immigrant to this country? A. Yes, sir.

Q. Is there any agreement among the railroads with respect to these immigrant rates? A. You are referring now to the New York rates?



2620

*C. C. McCain*

Q. East and westbound? A. Well, there is no so called agreement. There is an adjustment of rates as between the various competing roads, the competing routes, which is arranged for. There is the initial roads and then their connecting roads, and their connections.

Q. As an expert, Mr. McCain, is the steamship company any more than a connecting carrier in this immigration service?

Mr. Beers: Objected to as calling for a conclusion not only of fact but of law.

2621

A. The service as between the steamship company and the railroads is very similar to that performed at a great many terminals and junctions in many parts of the country. In that sense they are connecting carriers; in the sense that if you went from the point of law of the Commission, they are not connecting carriers.

Q. Under the act to regulate commerce? A. To the extent that they would have through joint arrangement and joint tariffs.

Mr. Crim: That is all.

By Mr. Beers:

2622

Q. In reference to this so-called \$2.50 zone, as a matter of fact the fare within that zone is so insignificant as to make it inadvisable to do the bookkeeping that would be involved to pay a commission on the ticket, is that not right?

Mr. Dorr: Objected to as leading.

A. I presume that was one of the reasons why it was excluded from the commission arrangement.

By Mr. Bullowa:

Q. The rate on immigrant traffic from New York among the members of the Trunk Line Association is all the same, is it not? A. Yes, sir.

Q. But on first-class traffic the rate is not the same, and that is because some of the railroads running west from New York have better facilities than the others, better roadbeds? A. Or unless the others are not so good.

Q. But the immigrant whether he is routed over a standard road like the New York Central or the Pennsylvania, or whether he is routed over the Lehigh Valley or the Erie, he pays the same rate? A. The fare is alike, we consider the fare the same.

2624

Q. I know, but the roadbed is different? A. I am not competent to say.

Q. Well, the time is different? A. It might vary a little but they are substantially alike. There is not enough variation in the time to be of consequence to the immigrant.

Q. Who takes the risk of the agent paying the railroad, the financial responsibility of the agent? Does the railroad take the risk in regard to that? A. Which agent?

Q. The agent who sells the ticket? A. Abroad?

Q. Abroad, or a prepaid ticket in this country? A. We look to the steamship company.

2625

Q. And the commercial allowance is, in a certain way compensation to the steamship company for taking the financial responsibility of the agent paying them the amount due to the steamship company?

Mr. Crim: That is objected to as not cross-examination and as leading.

Q. Is that the fact? A. That is one of the considerations for which the commission is given.

2626

Q. Do you know anything about the control stations abroad? A. I have only read about one in the last day or two. I am not conversant with them.

Q. Well, from the information that you have, is not the station at Ellis Island similar? A. I don't think so. I don't know what you want to have me say, but I do not think there is any similarity between Ellis Island and these other ones which I have been reading about. Ellis Island is a station of the Government, established in this country for the orderly handling of immigration.

2627

Q. Well, the control stations are stations of the Government abroad? A. I don't know.

Q. Well, can you so state from the knowledge you obtained in reading about them? A. I don't know.

Q. You said that the matter of time was not a factor in giving the immigrant a route. But is that not a factor with first-class travel? A. Certainly, that is one of the considerations entering into the scheme of differentiation as between the different roads affecting their first-class travel. The matter of time, and their other facilities are factors in those matters.

By Mr. Dorr:

2628

Q. Do you understand that the steamship companies deliver their rail orders to passengers or purchasers on credit, in any case? Don't you understand that the steamship companies always have in their possession, or in that of their agents, the money for the railroad fare before they issue a rail order? A. I don't know anything about it, sir.

Q. Well, then what do you mean by stating that the risk of the steamship companies is taken into consideration as a basis for the commercial allowance? A. I don't know that I said anything of that kind. I understood the inquiry to be taken broadly as to whether the collecting, if you please, the collecting of cer-

tain railroad fare for immigrant tickets by the steamship companies or their agents was not—that the accounting for those moneys was not a financial transaction of such a nature which might justify some compensation in the way of an allowance.

Q. Well, the interest on the money is compensation also, to them, is it not? A. That may be true, but, that I think is recognized as one of the factors that a man who is getting his compensation on a few commissions, that he is responsible if he collects money and takes care of it.

Q. Do you recognize that on first-class tickets, they are getting a commercial allowance? A. No, sir, we do not.

2630

Q. Do you consider as to that that the use of the railroad money is quite sufficient compensation to the steamship companies? A. I do not know whether that is the reason why we do not make any allowance on first and second-class tickets. I don't know as to that.

Q. Isn't the reason that they allow the commercial allowance in the case of the third-class traffic and not in the case of the first and second-class traffic, that the steamship companies can control the steerage business going westward, on the railroads and it cannot control the first-class traffic? A. I will answer that question this way: The reasons for the carriers making the commercial allowances to the railroads, which they think they are fully justified in doing, is that they act in the capacity of agents. The only thing, the financial feature, touched upon as part of the agency service, is the furnishing of our tariffs to the immigrant, and I presume they are translated in certain countries, to some extent, where they are needed, and all of that is regarded by the carrier as an agency service, for which they think they are fully justified in receiving compensation by commission. Now, you asked as to the control of the routing. That is another feature.

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*C. C. McCain*

2632

Q. You do not, however, furnish any compensation to the steamship companies for first-class business or second-class business? A. No, sir.

Q. Although it covers precisely the same services, the same services rendered by them?

Mr. Spooner: Objected to on the ground that the question assumes something that the witness has not testified to.

A. I do not know how the first or second-class business is conducted.

2633

Q. Is the service of the steamship company, in selling a ticket to a point within the \$2.50 zone any less onerous than it would be to sell a ticket to San Francisco? A. No, sir.

Q. And, as a matter of fact, where it sells a ticket to San Francisco it has the use of a much larger sum of money, than where it sells to a point within the \$2.50 zone? A. Yes, sir.

Q. And for that reason it receives less recompense? A. Yes, sir.

Q. Aside from the fact that it receives any commercial allowance? A. Yes, sir.

2634

Q. Is it a fact that the steamship companies cannot control the first-class business? A. Well, I don't know whether they can or not. Some of the lines think they can, that is control it through their ships.

By Mr. Crim:

Q. They have always maintained that they could among those trunk lines? A. They have at times considered that they controlled it.

By Mr. Dorr:

Q. Do you think, as a matter of fact, in your opinion, that the steamship companies, can control the inland transportation of their first cabin passengers, Mr.

McCain? From your experience, is it your opinion that the companies can control the inland transportation of their first cabin passengers in the United States? A. I should say no, as a general proposition, because the first-class passengers usually know where they want to go and how they want to go there.

By Mr. Spooner:

Q. They do not control the inland transportation of any of their passengers, in your understanding? A. There are times, when business has been concentrated by steamship lines on certain railroads.

Q. That was because the immigrant had no choice? A. Yes, in a general way.

Q. Has that been within the last four years? A. Well, there has been one or two spasms of that sort, yes, sir.

By Mr. Crim:

Q. As a matter of fact you could divert a great deal of this traffic through Canada, couldn't you? A. That is another feature in connection with the commercial allowance, and one of the reasons why the carriers think such allowance is essential, and reasonable. That is, if it is not allowed, the steamship companies serving New York and the other Atlantic ports would send a large proportion of their business through the Canadian ports. The Canadian railroads pay commission on immigrant traffic, and also on first and second-class traffic, and to all points; and the trunk lines feel justified in making this allowance by reason of all of those conditions and that they consider is in the nature of an agency service. I would like to say again that the expression, that the commissions ought not to be allowed, as I say, I would like to repeat is purely my own expression.

2686

2637

By Mr. Bullock:

Q. There is competition between the railroads of Canada and this country for the immigrant traffic and for the first-class traffic? A. Surely, pretty strong.

Q. Strong competition? A. Yes, and it is being increased by the steamship people stopping at those Canadian ports after they come to New York or before, dropping in at Halifax on the way.

2639 Q. The financial responsibility of an agent who sells an immigrant ticket, and the financial responsibility of the agents who sell the first-class ticket is considerably different, is it not? A. No, I really don't know as it is. I would say that they were practically the same agent, the same agency, or at least different men operating out of the same agency.

Q. The railroad always takes a certain risk when it places its tickets in the hands of an agent? A. Surely, but we do not consider that we place our tickets in the hands of any agency. We are dealing with the steamship companies.

2640 Q. Suppose you placed these tickets in the hands of agents and did not have any arrangement with the steamship companies, you would then take the risk of the agent coming in and paying the amount due for the ticket? A. Surely, but we would have to protect ourselves in some way. But, we have not yet found it necessary to bond the steamship people.

By Mr. Dorr:

Q. You are familiar with the conditions which existed in the City of New York in recent years, as regards the accounting for tickets when sold? A. No, sir.

Q. The railroads have never suffered any loss through the sale of tickets in this way, have they? A. I don't know of any, there might have been some isolated cases, but I don't know of any.

Q. You say that you do not look to the agents at all? A. No, sir, we are dealing with the steamship company, they handle these orders, present them at our office.

By Mr. Spooner:

Q. There is one thing that I wanted to have cleared up in my mind, and that is this: I wanted to find out, to ascertain how much commercial allowance would there be on the ticket of an immigrant who bought his ticket on the other side destined to Newark, New Jersey? A. None.

2642

Q. What would any commercial allowance be, if an allowance were made to Newark, what would be the amount of it? A. If we were to apply ten per cent of the fare to Newark, it would be ten per cent of whatever the fare is, which I do not happen to recall. However, it would be a very small amount, as you can see. I think the fare is about 17 cents by the tube route uptown or 15 cents.

Q. And to arrive at a computation of that allowance would not warrant the bookkeeping that would be necessary? A. Oh, no, sir. Those are handled like all other matters which the railroad has, there is a minimum, below which they do not go.

Q. And in that case it is \$2.50? A. Yes, sir, that is \$2.50 as I understand it.

2643

On a great many of those tickets within the \$2.50 zone there is no competition, they would have to go on one railroad anyway.

Mr. Dorr: That is all with this witness.

Adjourned to 2 o'clock P. M.



After recess.

MAX STRAUS, recalled:

*Direct-examination by Mr. Dorr:*

Q. Mr. Straus, are the steamers which are running on your line now more or less economical of operation than the steamers you formerly ran? A. I am not an operating man and what answer I give is only supposition.

2645 Q. Does that same answer apply to the testimony which you have previously given in regard to rates? A. No, that is by experience.

Q. Can you state whether or not a rate is profitable or not without knowing the cost of operating a ship?

A. We can only say approximate or about and it is not exact; we are not operating people.

Q. Do you make the rates? A. No, sir; our rates are made by my company.

Q. Where? A. At Libau.

Q. I show you a certain letter and ask you whether or not that was received by your company? A. This letter was received by me, yes, sir, from my company at Copenhagen.

2646 Q. What company? A. The East Asiatic Company.

Q. The East Asiatic Steamship Company? A. Yes, sir.

Mr. Dorr: I offer that letter in evidence unless you gentlemen desire to have the whole of it in evidence, I suggest that I will read in evidence the part which I desire.

Mr. Burlingham: Just this paragraph is all you want?

Mr. Dorr: Yes.

The Witness: May I see that letter, Mr. Dorr?

Mr. Dorr: Not at present, Mr. Witness.

Marked Petitioner's Exhibit No. 227.

Mr. Dorr: Letter from Copenhagen, 15th of September, 1908, on the letterhead of the East Asiatic Steamship Company, addressed to Messrs. A. E. Johnson & Co., New York, Dear Sirs:

Mr. Spooner: Are you going to read it?

Mr. Dorr: I am simply going to read the part I desire, unless you wish the entire letter offered. (Reading.) "We beg to acknowledge receipt of your favors, one of the 2nd, three of the 3rd and one of the 4th inst., and copy of your letters of the 4th inst. to Messrs. Ruys & Company, Rotterdam, \* \* \* *Prepays*: We note you have fixed a rate prepaid from Libau to New York of \$35, including head tax and all lines agreed thereto. We further notice you are going to advance second cabin rates from Libau to New York about \$2.50 per head \* \* \* Yours faithfully—"

2648

Q. What is that signature? A. That signature is Capt. Schmiegelow.

Q. Is Captain Schmiegelow an officer of that line?

A. An officer of the East Asiatic Steamship Company, I believe.

2649

Mr. Spooner: What is the point of it, that he fixed the rate here?

Mr. Dorr: I will have to leave that until after you have read the record. The point of it is quite apparent.

Mr. Beers: Of course, this is subject to objection.

Mr. Dorr: I show you what purports to be a letter under date of the 25th of August, 1908, addressed to your line from the Russian East Asiatic Steamship Company?

*Max Straus*

2650

The Witness: Yes, sir.

Mr. Dorr: I offer this letter in evidence.  
Marked Petitioner's Exhibit 228.

Q. Did you send this copy (handing document to witness) to the Russian East Asiatic Steamship Company? A. Yes, sir.

2651

Mr. Dorr: Purports to be a copy of a cablegram to the Russian East Asiatic Steamship Company, from A. E. Johnson & Company, New York, under date of the 25th of August, 1908. I offer that in evidence.  
Petitioner's Exhibit 229.

Q. This copy of a cablegram, Government's Exhibit 229, which has just been offered in evidence, was received by you with an enclosure in the letter, Government's Exhibit 228? A. Yes, sir.

Mr. Dorr: I show you what purports to be a letter and a copy of a telegram, letter under date of the 1st of September, 1908, copy of telegram purporting to be under the date of the 2nd of September, 1908, and ask you whether that is a letter received by A. E. Johnson & Company? A. Yes, sir.

2652

Mr. Dorr: I offer the letter in evidence?  
Petitioner's Exhibit 230.

Q. As to this what purports to be a copy of a cablegram, was this a cablegram sent by you to the Russian East Asiatic Steamship Company? A. I think so.

Mr. Dorr: I offer that in evidence.  
Petitioner's Exhibit 231.

Mr. Dorr: I show you a letter under date of the second of September, 1908, and ask you whether that

is a letter received by you from the Russian East Asiatic Steamship Company?

The Witness: Yes, sir.

Mr. Dorr: I offer that in evidence.

Petitioner's Exhibit 232.

The Witness: These are the letters I furnished you with under subpoena.

Mr. Dorr: Yes. Mr. Straus, I show you a letter under date of the 5th of September, 1908, and ask whether that letter is one received by you from the Russian East Asiatic Steamship Company?

The Witness: Yes, sir.

2654

Mr. Dorr: I offer that in evidence.

Petitioner's Exhibit 233.

Mr. Dorr: I show you what purports to be cablegram under date of the 2nd of September, 1908, and ask whether that is a copy of a cablegram received by you?

The Witness: Yes, sir.

Mr. Dorr: I offer that in evidence.

Petitioner's Exhibit 234.

Mr. Dorr: I show you what purports to be a cablegram and ask whether that is a cablegram received by you from your line?

2655

The Witness: Yes, sir.

Mr. Dorr: I ask whether the pencil memorandum above the first word of that cablegram is a translation of the typewritten code word?

The Witness: Yes, sir.

Mr. Dorr: I offer that in evidence.

Petitioner's Exhibit 235?

Q. Mr. Straus, do you keep a press letter book? A. We have not kept a press letter book in some time; we don't keep one now, just slips.

2656

Q. When did you discontinue keeping a letter press copy book? A. I think in 1907 we changed the form and had simply slips, carbon copies.

Q. What is the last letter press copy book you have in your possession? A. I was trying to find it; I haven't got any; we have been moving and haven't been able to find it.

Q. You have not been able to find your last letter press book containing copies made in that way? A. No, sir, I hope to.

2657 Q. What is the method which you use to preserve copies of letters sent by you? A. We file them in alphabetical order.

Q. File them in a regular filing case? A. Regular filing case.

Q. You preserve all copies of letters sent out by you? A. Yes, sir, and then at the end of the year we pack them up and put them away.

Q. Have you made a search through all of the copies of letters which you have sent to your line, in obedience to the subpoena which has been served upon you? A. I have made a search but I have not been able to complete it yet.

2658 Q. And these papers that you have produced do not represent complete answer to the subpoena? A. They represent all that I could find for the time being.

Q. You received the subpoena some two weeks ago did you not? A. Yes, sir, but I tried to explain to you—

Q. When did you begin the search of the letter press copies of your correspondence? A. About immediately afterwards.

Q. And have you examined the letter press copies for the year 1908 yet? A. I don't think I have got any press copies for 1908.

Q. I don't mean book, but haven't you any copies of the letters which you sent to your line during that year? A. I ought to have them.

Q. Have you not found them yet? A. I haven't found them, but I hope to find them.

Q. What have you done to find them? A. I had two or three clerks go down and look through and I think some boxes down there, they are going to open them up, boxes that have been put aside, railroad vises and things of that kind.

Q. What are the names of those clerks? A. One is Mr. Nahmschik.

Q. What are the names of the others? A. The others, one is Mr.—I forget his name—David Israel, a stenographer.

Q. What is Mr. Nahmschik's first name? A. I forget his first name. Mr. Israel claimed he gave all of the letters that he had in his possession to Mr. Bullowa, because he has only been stenographer there about a year.

2660

Q. Claims that he gave them to Mr. Bullowa? A. Yes, sir.

Q. When? A. To deliver here.

Q. To deliver here? A. Yes, those amongst the papers that you got.

Q. Mr. Israel says that he has given to Mr. Bullowa all of the letters which he has been able to find? A. In his file, because he has only been with us about a year.

2661

Q. Have you had him make a search through the files of 1908? A. No; he doesn't know anything about those files.

Q. Have you had him make a search for them? A. No.

Q. He is not one of the men you have had make a search through the earlier files? A. No, he is not.

Q. Has anyone besides Mr. Nahmschik made a search through the earlier files? A. I don't know; I suppose some of the other clerks.

Q. Well, who? A. I don't know whether Mr. Jurgensen or not has made a search.

2662

Q. Did you direct him to? A. I don't exactly remember; I think I did; I am not sure.

Q. What is his first name? A. I don't remember his first name.

Q. Although you directed this search to be made through the copies of the outgoing letters of your line for the year 1908 some two weeks ago, you have been unable to find any? A. I found everything that pertained to what I understood the subpoena was, except some carbon copies of letters I wanted to bring you.

2663

Q. You have not produced any outgoing letters, have you? A. I think there must be some in the files.

Q. I will show you the rest which Mr. Bullowa has produced? A. We just picked the file right out, Mr. Dorr, and gave it to Mr. Bullowa to deliver here.

Q. The file of what? A. The file of all letters addressed by us to our company at Libau.

Q. For what years? A. He was only with us about a year, the stenographer.

Q. He has only been with you for a year? A. Yes.

2664

Q. Well, then the letters that you gave to Mr. Bullowa did not cover the period called for by the subpoena at all; what have you done to obey the subpoena? A. We went through the different letters that we thought that you were interested in, everything pertaining to conference, rates, agreements, telegrams, congratulations of the company and so forth; that is all we thought that you wanted from us; I didn't know you wanted our entire files.

Q. Have you been through the letters which you wrote to your home office? A. On these subjects?

Q. Yes? A. Yes, sir.

Q. Well, then you now say that you have examined the copies of letters which you wrote to your home company during the years 1908, 1909 and 1910? A. Not 1908, 1909 and 1910.

Q. Those were the years called for by the subpoena, were they not? A. I believe so.

Q. Why didn't you make an examination for those? A. I am not finished yet, Mr. Dorr.

Q. You made no statement, nor Mr. Bullowa made no statement that this was a partial production? A. Evidently I misunderstood the subpoena.

Mr. Bullowa: Mr. Dorr, we have tried to produce all of the letters we could lay our hands on.

The Witness: I did not think you wanted the entire office correspondence.

2666

Q. Mr. Straus, did you not understand the subpoena called for the correspondence in regard to these matters, in the years 1908, 1909 and 1910; didn't you understand that? A. I understand it better now than I did before, and I have no intention on our part to keep any letters back, because we gave you the most important letters we have in our possession.

Q. You do not consider the letters which you wrote to the home office on these matters as important? A. Not as important as these; no, sir.

Q. Well, it may be that the Court or the Government will take a different view from that, Mr. Straus. Then as a matter of fact you have taken no steps to search for those letters during that period, to search for the outgoing letters to your home office? A. I didn't so understand it exactly; I didn't know you exactly wanted all of my outgoing correspondence to the home office.

2667

Q. You have not produced any and have not searched for any, have you?

Mr. Bullowa: As I understood Mr. Straus to say he has tried to find that file of letters and has not been able to do it.



*Max Straus*

2668

The Witness: We have moved at one time and these letters were in a separate box. I will find them for you, whatever you want. I feel quite certain. We don't want to hide anything.

Q. Have you, up to date, made any search for them? A. Yes, sir.

Mr. Bullowa: Do I understand that you made the search personally or through your clerks.

The Witness: Through the clerks.

2669 Q. You have directed your clerks to make a search for carbon copies of letters written by you or your company, from here in New York to your home office in regard to fighting ships, entrance into the conference and the other matters covered by the subpoena? A. I have directed them to pick out every letter that pertains to the conference, to the fighting ship and every kind from the company, but I did not speak about certain letters that I have written because I misunderstood that. I gave that subpoena to Mr. Bullowa and evidently we misunderstood the way it should have been, but I am sure I will get you everything you want.

Q. You testified, Mr. Straus, that you had at certain times, while in the railroad business, paid commissions as high as \$17?

2670

Mr. Beers: I renew my objection to this line of evidence—the same objection I made when Mr. Sandford and Mr. McCain were on the stand.

Mr. Dorr: I understand your objection continues and need not be repeated.

A. Yes, sir.

Q. On a San Francisco ticket? A. Yes, sir.

Q. Commission? A. Yes, sir.

Q. Was that on a steerage ticket? A. There was no difference between first-class, second-class, or steer-

age or third-class; I think at the time these commissions were paid, when everything was demoralized.

Q. Do you mean to say that the first-class rates to San Francisco were the same as the steerage rates? A. No, sir; you asked me about commissions, first-class commissions, I think, I feel quite certain were the same.

Q. Were the first-class rates the same as the steerage rates at that time? A. There are no steerage rates in the railroads; it is called immigrant rates.

Q. Were the first-class rates on the railroads the same as the immigrant rates at that time? A. Not to San Francisco.

2672

Q. Do you mean to be understood as saying that the railroads paid a \$17 commission on immigrant business at that time? A. The railroads paid more. The outside agencies paid \$17 commission and I paid as high as \$17 commission.

Q. On immigrant business to San Francisco? A. Yes, sir.

Q. When was that and what was the railroad? A. There were a number of railroads.

Q. Well, give one? A. The Atchison, Topeka & Santa Fe.

Q. You were directly concerned with that and had personally, knowledge of this fact? A. I had personal knowledge that that commission was paid by the Chicago, Rock Island & Pacific, and the Atchison, Topeka & Santa Fe.

2673

Q. When was this? A. It is a very difficult thing for me to give you the exact year, but it is history in railroading.

Q. Well, what is the date in this history of railroading? A. I could not give you the exact date.

Q. Well, approximate it?

*Max Straus*

2674

Mr. Bullowa: About 1894.

Mr. Dorr: I think I will take the witness's recollection, without suggestion from the counsel.

Mr. Bullowa: It is a question of history.

Mr. Dorr: I am examining this witness's knowledge of history on this.

A. It might have been 1891, 1892, 1893, 1894 and 1895, I couldn't say which and possible 1896.

Q. That is back in the 1890's? A. Yes, that one time, and it was renewed again, I think in 1900.

2675 Q. And you say that you paid as high as \$17 for commission on immigrant traffic, on immigrant passengers for San Francisco as late as 1900? A. I believe so; of course, I couldn't give exactly the date.

Q. What was the rate at that time, San Francisco rate? A. I think the rate was—

Q. Immigrant rate? A. I think the rate was \$63.25.

Q. \$63.25? A. I think so.

Q. Have you any records relating to that time? A. No, sir; I have not.

Q. You have no way of verifying your statement then? A. You can verify it through Chairman McCain of the Trunk Line Association.

2676 Q. You have no way of verifying the rate at that time? A. I think possibly by discussion and talking with others that were in the business, we could get down to the time.

Q. But you have no records in your possession that would tell you anything about it? A. No, sir.

Q. Do you know of any place where I could obtain them as to your transactions? A. My personal transactions, no, sir.

Q. Now, to return Mr. Straus to my questions to the new ships which your line put on, put in service, did you take off the old ships when the new ships were put on? A. Yes, sir.

Q. You withdrew the Estonia? A. Yes, sir; the company withdrew the Estonia.

Q. What was the rate which the Estonia charged for transportation from New York to Rotterdam? A. The regular rate?

Q. Yes? A. I believe \$33.

Q. What is the rate which your ships at present charge? A. \$33 to Rotterdam.

Q. Was the Estonia the same sized ship as the present ships? A. Oh, no, sir.

Q. Smaller ship? A. Smaller boat.

Q. Have you got any record of the expenses of the Estonia? A. No, sir, I do not keep any records of the expenses of the steamers. 2678

Q. You have no records which show the actual cost of the steerage business as carried on by the Estonia? A. No, sir.

Q. Have you any records which show the actual cost of steerage business carried on by the Kursk? A. No, sir.

Q. Have you any records as to the profits on the steerage business made by the Estonia? A. No, sir.

Q. Or the Kursk? A. No, sir.

Q. Have you at any time made a detailed examination of the expense account of either of those ships? A. I have no ways or means of making such an examination. 2679

Q. Your business is to sell the tickets? A. Yes, sir.

Q. You are not concerned with the financial management of the line? A. No, sir.

Q. Have you ever been concerned with the financial management of any line? A. I am interested in the financial but concerned—

Q. Has it been part of your duties to take part of the financial management of any line? A. No, sir.

*Max Straus*

2680

Q. On your ships when you are unable to secure a full complement of steerage passengers, do you utilize the steerage space for freight? A. That matter is handled by Messrs. Benham and Boyeson.

Q. You know nothing about it? A. I know something about it, they are the ones that work the ships.

Q. Are your ships so constructed in the steerage compartment, that you can shift from steerage to freight and freight to steerage? A. I shouldn't wonder.

2681 Q. I don't want your wonders Mr. Straus, I want any information that you have; I don't want speculation? A. Yes, sir, we can.

Q. Now, such knowledge as you have of steamers of your line and other lines, is that the ordinary methods of constructing the steerage quarters? A. Yes, sir.

Q. So that at periods when the steerage business is light it is practicable to make use of that space in the carriage of freight if freight can be obtained? A. If freight is offered.

Q. You stated that in your opinion your rates ought to be higher than other lines because you have to furnish kosher meat? A. Yes, sir.

2682 Q. What is the relative price per pound of kosher meat and other meat? A. I understood it was from one to three cents per pound higher.

Q. And how many pounds do you serve to a passenger in the course of a voyage? A. I don't know, but it costs more; that is all I know.

Q. You don't mean to say you furnish them more than a pound a day, a passenger? A. Some eat much more.

Q. It might make 36 cents difference on a voyage? A. It is a lot of money when we have a lot of passengers. We have often had an infant, Mr. Dorr, who paid us only \$2.50 and cost us \$500.

Mr. Dorr: Mr. Straus, confine yourself to answers to my questions and any information you desire to give, give it to your counsel and if he desires to bring it out he will do so.

The Witness: All right, sir.

Q. The ships of your line since you joined the conference have from time to time been employed as the so-called defending ships? A. Yes, sir.

Q. When so employed, you have sailed them at reduced rates, have you not? A. Yes, sir.

Mr. Bullowa: I object to that as leading.

2684

Q. Have you reduced rates as low as \$22 to Rotterdam?

Mr. Bullowa: Same objection.

Q. (Continuing): On those ships? A. I believe so.

Q. Has your line received for those voyages, compensation or remuneration for so reducing its rate, from other lines? A. They never told me so; I shouldn't wonder if they did; I don't know it.

Q. You have no information one way or the other? A. Not from the company to me.

Q. When was this rate of \$1 from New York to Chicago? A. I believe that rate started in 1885 or so and lasted over a year, possible two years.

2685

Q. Have there been any such rates since the Interstate Commerce Commission has been in existence? A. I believe the rates were cut from New York to Chicago ten dollars during the time of the Interstate Commerce Commission.

Q. The lowest has been ten dollars? A. I believe so.

Q. And how long ago was that? A. Several years ago; I could not give you the exact time.

Q. When was this rate of \$7 from Hamburg to Chicago, was that at the time you mentioned? A. Just about the same time that the Pennsylvania Railroad in their dispute with the other railroads, reduced their rate to Chicago to \$1 and the West Shore Railroad followed suit and then went in the hands of a receiver.

Q. That was prior to the Interstate Commerce Commission? A. Yes, sir; and was bought up by the Vanderbilt Lines.

Q. What was the lowest rate from Hamburg to New York within the last 15 years? A. Well, of course, if I answer that—

2687

Q. (Interrupting): Of course, it is approximate, Mr. Straus; I appreciate that? A. I shouldn't wonder one time it was \$35, but that is only giving you my idea. I may be wrong.

Q. And the rate from New York is more than that, I suppose? A. It has been as low, outside of the defending steamers I think it has been as low as \$27 or \$28.

Q. And what has been the rate to Rotterdam? A. They don't vary very much, about the same, except that the railroad's fare in the interior cost from \$2 to \$2.50 more than it costs from Hamburg.

2688

Q. And the Rotterdam rates have ordinarily been lower than the Hamburg rates? A. Oh, about the same, about the same.

Q. And there has been no substantial variations from those rates? A. Not that I know of.

Mr. Dorr: That is all.

*CROSS-EXAMINATION by Mr. Bullock:*

Q. You testified the other day that one of your vessels went out, the Pennsylvania of the Hamburg Line went out with 15 passengers; do you want to correct that? A. Yes, sir.

Q. What are the facts? A. It was the Pretoria that went out on the 15th inst. instead of the Pennsylvania, and she went out with only ten steeragers instead of 15.

Mr. Dorr: You are sure it was ten and not a hundred.

The Witness: No, sir, I verified it by telephone and asked the Hamburg Line whether I was correct in my statement.

By Mr. Bullowa:

Q. Mr. Straus, the question put whether the commission which you paid on the ticket to San Francisco of \$17.50 was unusual and whether you could verify that information, I understood your testimony to be that you had no way in which you could verify that statement, but was a similar commission paid to other people in your position at the same time? A. They all paid it.

2690

Q. Other people received it? A. Every steamship company received it.

Q. There wasn't anything unusual about it at that time? A. Oh, no; the Southern Pacific paid it in Europe through their agent.

Q. You were asked whether you fixed the rates or whether the company in Europe fixed the rates; and I understood your testimony to be that you fixed the rates; the company fixed the rates? A. Yes, sir.

2691

Q. And certain exhibits were shown you, which I think run from 227 to 235, inclusive? A. Yes, sir.

Q. Will you explain your testimony in connection with those exhibits? A. The managing office when the Russian East Asiatic Steamship Company was first in existence, under the General Passenger agentship of New York—Copenhagen was the managing directors; they received all information from our company's general agent at Libau which was the working



2692

end of it and when you might see a letter saying we see you have arranged your rates and so and so and so, that was instructions to us from Libau and we in writing a letter and answering it sent a copy of every letter that we sent to Libau, to the managing directors at Copenhagen up to the time we were told not to send any more of these letters, but confine all of our letters to Libau. At that time we had a general agency, I believe prior to that, in Libau, by the name of Niefau & Company, who not alone represented our line, but represented the Russian Volunteer and he was afterwards dismissed for reasons best known to the company, and the company then assumed the old management at Libau and that is the reason why it might look conflicting to my testimony here when these letters say "We see you have made such and such rates"; not me, my company through the company at Libau.

2693

Q. Or through Niefau? A. I don't know whether it was Niefau, but also my instructions was in all cases when we were not in the conference to follow the Volunteer.

Q. Whatever rates the Volunteer fleet made to follow them? A. That was my instructions.

By Mr. Dorr:

2694

Q. The Volunteer Fleet was not in existence at the time of these letters? A. I said prior, when we were out of the agreement.

Q. Did you in fact fix the rates? A. I have no authority to fix rates; everything done by us in this country is subject to the company's approval.

Q. As I understand, your most recent information is that your company is not a member of the conference? A. That is my information, that they are not a member of the conference.

By Mr. Beers:

Q. Mr. Straus, did I understand you to say that the lowest steerage rate from Hamburg to New York within the last 15 years was in the neighborhood of \$35? A. I said from \$30 to \$35.

Q. In designating that as the lowest rate, did you include rates which had been charged at time of wars? A. No, sir; I did not. I meant when everything is regular, and no fighting of any kind, legitimate rates.

By Mr. Dorr:

2696

Q. That is at time when there has been an agreement as to the rates, that is what you mean, is it not?

A. No, sir, I mean regularly, when there is harmony in the steamship business, as well as in the railroad business.

Q. When there is no competition among the various lines? A. When there is no illegitimate competition. It is not legitimate when you have a \$22 rate against a \$33 rate.

By Mr. Bullowa:

Q. You have been in the steamship business, we will say for the last 25 years, have you not? A. Yes, sir.

2697

Q. And there have been in the steamship business years of extreme leanness? A. Yes, sir.

Mr. Dorr: I object to any further testimony as to the financial outlook of this witness, on the ground that the witness has already disqualified himself from any testimony on that point, by showing an absolute lack of familiarity with it.

Q. Years of extreme depression?

Mr. Dorr: I make the same objection.

A. Yes, sir.

Q. Well, I mean if you are familiar with these economic situations in the steamship trade for the last ten years, are you not?

Mr. Dorr: I object on the ground that the witness has already stated he is not familiar.

A. We are not operators of steamship companies, we are simply general passenger agents.

By Mr. Dorr:

2699 Q. Do you mean to be understood as testifying that you in your office did not advance the outward rate on the ships of your line to \$28 as stated in this letter Exhibit No. 228? A. No, sir.

Q. Did your office fix that rate? A. The rate was fixed by our Libau office. They evidently would cable us and ask us what the rates were by other lines, or write us, and we would cable back, and then they would give us instructions.

Q. Your Libau office then was your home office? A. Our home office was Libau. The managing director's office was in Copenhagen.

2700 Q. Have you produced any correspondence from your Libau office—you have not, have you? A. I don't know whether I have or not.

Q. Suppose you look through the correspondence you have produced and see whether there is any correspondence from your home office? A. I do not see any, but I will find those letters for you, I think.

Q. Will you find any correspondence that shows that the rates that are described in these letters as having been written by the New York office were really written by the Libau office, and will you also produce all correspondence had by your line in 1907 when you became an agent,—from 1907 down till the time when you joined the conference, with reference to the

methods used by the conference lines in opposition to your line, and as to any methods or measures which your line considered to meet that opposition, whether those measures were by bringing a legal proceeding or by endeavoring to secure admission to the conference? A. I will try to find those letters if they are in existence.

Mr. Dorr: I mean not merely letters which were received by you from your home office in Libau or Copenhagen, but also press copies, or other copies of letters which you wrote.

Q. This Hamburg rate that you spoke of before, is not the lowest rate which has been made between Hamburg & New York, is it? A. No, sir. 2702

Q. In the last 15 years, what other rates, which you regard as illegitimate rates, have existed between Hamburg and New York? A. There was a difference between the lines some years ago whereby I think the Hamburg rate was reduced quite materially.

Q. Well, to what point? A. I don't know, I think it went down as low as \$15 or \$20.

Q. When was that? A. When there was a fight between—

Q. What was the date? A. I couldn't give you the date.

Q. At a time when there was a temporary suspension, or when there was no combination between the lines? A. I think there was a fight between the Cunard Line and the different lines on some matter or other which I forget, I cannot give you the exact circumstances now. 2703

Mr. Dorr: That is all with this witness.

2704

*Oscar L. Richard*

OSCAR L. RICHARD, re-called:

*Direct-examination by Mr. Dorr:*

Q. Have you been able to find the tariff of the Mediterranean Lines to Continental ports? A. I have not found the printed tariff, but I got an extract of the rates from our copy book. We quoted rates of Continental ports from April 25, 1908, to December 1908, some time in December, 1908, and the rates vary.

Q. Where were these rates from? A. New York.

2705 Q. Is that a New York rate? A. New York by way of Italy, by way of Genoa.

Q. To the inland Continental port points? A. Yes, sir.

Q. What was your rate at that time to Genoa, your ocean rate? A. \$15, \$17, there was a war in the rates at that time.

Q. \$15 and \$17? A. Yes, sir.

By Mr. Spooner:

Q. What line was that? A. The Lloyd Italiano.

By Mr. Dorr:

2706 Q. And this is a compilation of the rates that applied between April 25th, 1908, and December, 1908? A. Yes, sir.

Mr. Dorr: I will offer this in evidence.

By Mr. Spooner:

Q. Is that by way of Genoa? A. Yes, sir.

Q. What is the rate to Genoa? A. \$15, \$17 and even higher later on, as the rates increased.

Q. How much of this rate charged here was the steamship and how much railroad? A. I cannot tell you without referring to our records.

Q. I thought that was a paper showing the railroad rate? A. It shows the through rates, including the rail rates.

By Mr. Dorr:

Q. You testified, didn't you that the ocean rate was \$15 and \$17? A. Yes, sir, and sometimes higher later on as the other rates advanced, the ocean rates advanced also.

Q. \$15 and \$17, and some times higher? A. Yes, sir, later on.

2708

SAMUEL NAHMSCHIK, sworn on behalf of the petitioner, testified as follows:

*Direct-examination by Mr. Dorr:*

Q. What is your business? A. Bookkeeper with A. E. Johnson & Company.

Q. What are your duties? A. Keeping books and the accounts in the office.

Q. Among the accounts that you keep are there any accounts for expenses of steerage transportation, steerage passengers? A. No, sir.

Q. You keep no records of that? A. No, sir. 2709

Q. No records of the expenditures made for steerage transportation on steamers of the Russian East Asiatic Steamship Company? A. No, sir.

Q. Have you made a search for any papers of the Russian East Asiatic Steamship Company? A. Yes, sir.

Q. What search have you made? A. I looked in the files.

Q. What files? A. In the office where we filed all the letters received from the company

Q. What letters? A. Letters received from the company.

*Jacob Jurgensen*

2710

Q. And did you discover any letters? A. No, I could not find any.

Q. Did you make any other search? A. I searched only about two or three hours, and I could not find any so I stopped searching.

Q. And that is the only search you have made? A. Yes, sir.

Q. Did you report the result to anyone? A. I reported it to Mr. Straus.

Q. Did you receive any directions from Mr. Straus? A. I received a direction to search again but I did not have any time to look for it, so I did not.

2711

Q. What did he tell you to search for? A. To search for the letters which concerned anything in connection with the pool agreements and etc.

Q. Letters received from the company? A. Yes, sir, received from the company.

Q. Did he ask you to make any other search? A. No, sir.

Mr. Dorr: That is all with this witness.

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2712

JACOB JURGENSEN, called as a witness on behalf of the petitioner, was first duly sworn and testified as follows:

*Direct-examination by Mr. Dorr:*

Q. Have you made a search for papers of the Russian East Asiatic Steamship Company? A. Not so far as I know of.

Q. Have you been instructed to make a search for them? A. No, sir, I was not.

Mr. Dorr: That is all with this witness.

Mr. Richard was then recalled to the stand and at the request of Mr. Dorr his examination was adjourned until July 9th, 1912. 2713

The witness Richard was directed by the examiner to appear in the court on July 9th, 1912, at two P. M. for further examination.

Hearing adjourned to July 9th, 1912, at two o'clock P. M.

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UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

2714

UNITED STATES OF AMERICA,	}
Petitioner,	
against	
HAMBURG-AMERIKANSCHER PACK- ETFAHRT - ACTIEN - GESELL- SCHAFT and others,	
Defendants.	}

Before Charles E. Pickett, Esq., Examiner.

2715

New York, July 9th, 1912.

Hearing resumed pursuant to adjournment.

Appearances:

Henry A. Wise, Esq., Goldthwaite H. Dorr, Esq.,  
Henry A. Guiler, Esq., John S. Bradley, Esq., J. W.  
H. Crim, Esq., for the petitioner.



2716 Messrs. Burlingham, Montgomery & Beecher by Charles C. Burlingham, Esq., and Norman B. Beecher, Esq., for The Anchor Line, Ltd., *et al.*

Messrs. Choate & Larocque, by Nelson Shipman, Esq., for Norddeutscher Lloyd, *et al.*

Messrs. Spooner & Cotton, by L. C. Spooner, Esq., for the Allan Line, *et al.*

Messrs. Lord, Day & Lord, by Lucius H. Beers, Esq., and Allan B. A. Bradley, Esq., for The Cunard Line, *et al.*

Ralph J. M. Bullowa, Esq., and Walter Rogers Deuel, Esq., for the Russian East Asiatic Company, *et al.*

2717 Mr. Bullowa: There are in my office about between fifteen and twenty letter books and copy books and it is impossible to discriminate what letters the government wants and which they do not. I spent one day going through part of the letter books and for that reason I make the suggestion that the Government examine the books and choose the letters they want themselves. Some of the letter books are in bad condition, they have been through water, that is, as far as the letters to agents are concerned it is impossible to pick them out for a period covering fourteen years, that they are all mixed up with general correspondence, and it will require some one of considerable intelligence to go through the company's files and find out which letters the Government wants, and I am willing to have the Government go through those files and letter books.

2718

Mr. Dorr: The subpoena calls for the production in court of certain papers and at the last session Mr. Straus stated that he will produce those papers which he had previously

failed to produce. The testimony was that there were not letter books subsequent to 1906; I understand you now to state that there are letter books covering 1907, 1908, 1909 and 1910. 2719

Mr. Bullowa: No, there are letters covering 1907 and part of 1908.

Mr. Dorr: Nothing later than that?

Mr. Bullowa: Later than that they are the office files or letter files and those are mixed up with general correspondence. There is no book separating letters regarding conferences from other letters.

Mr. Dorr: The Government does not care to have the custody of these particular exhibits, but desires them to be produced in court so that it may offer such of them in evidence as it desires and remain in the custody of the examiner. 2720

Mr. Bullowa: I am not authorized to offer the letters to any one. They are in my office now, if the Government insists upon having the letters picked out it will have to give me considerable time to do it.

Mr. Dorr: The Government has called for the production under different subpoenas of certain books and certain letters.

Mr. Bullowa: And it is a physical impossibility to pick those letters out from what the Government has given. 2721

Mr. Dorr: It is not a physical impossibility to produce the books which contain them.

Mr. Bullowa: The Government did not call for the books; it only called for certain letters.

Mr. Dorr: It is about three weeks since the service of the subpoena calling for those letters and it appeared at the last session that no effort had been made to obey that subpoena so far as the outgoing letters of your line were

2722

concerned. I don't want to take the time of the district judge with contempt proceedings but that will be absolutely necessary unless these subpoenas are obeyed.

Mr. Bullowa: If you want to send down for the books you can do so.

Mr. Dorr: Certainly, as I informed you, the Government will do the necessary physical labor. You will produce them this afternoon?

Mr. Bullowa: Not this afternoon, but you can send down for them tomorrow morning when I am in the office. I will have to get permission to let them out of my possession.

2723

Mr. Dorr: Senator Spooner, as to the search which you have been making for the documents in obedience to the subpoena?

Mr. Spooner: Mr. Lederer has gone through the books, all of which are in German, and has transcribed in German literally the text of every letter relating to the matters called for in the subpoena, and I shall immediately have that translated by the regular man who attends to that business and will preserve the German text so that you can compare them, if you choose. It will take some little time.

2724

Mr. Dorr: Will you leave directions with Mr. Lederer to have them turned over to the examiner or to us?

Mr. Spooner: Yes. Which do you prefer?

Mr. Dorr: It is handier to have them turned over to us, if it suits you.

Mr. Bullowa: I understand our books are to be turned over to the examiner?

Mr. Dorr: Certainly, if you prefer.

Mr. Bullowa: I would as it has other correspondence.

Mr. Dorr: Mr. Beers?

Mr. Beers: I received information this morning that the papers called for by the Govern-

ment are on the Lusitania to be here on Friday the 12th, so that I expect I will receive them by Saturday, and produce them the first of the week. I understand they are papers of every description for the period called for. 2725

Mr. Dorr: Do they also cover that correspondence which Mr. Sandford mentioned in his testimony, that is, it will cover those informal agreements?

Mr. Beers: Mr. Sandford testified as I recall that there were certain traffic agreements existing prior to the agreement "AA" and I asked the Government how far back they wanted those produced and I think you said you preferred them to go as far back as 1892, so I asked them to produce every agreement of every description relating to traffic rates from 1892 to 1908. 2726

Mr. Dorr: Mr. Burlingham?

Mr. Burlingham: I have in my office now, they were sent up this morning, letters from the International Mercantile Marine to Europe and the replies. I have not had time to go through them, but I will produce them tomorrow morning, if you wish. They run from 1908, to the present time; I find what is called for in your subpoena is only to the 12th of June, 1908, but I understand now that you want to go back further; how far back do you want to go? 2727

Mr. Dorr: I think the letters in the early part of 1910, would be entirely unintelligible and it would be necessary to go back for six months, the period covered by the negotiations leading up to Exhibit "AA."

Mr. Burlingham: From the first of August, 1907?

Mr. Dorr: Yes.

Mr. Burlingham: I will call with them in the morning.

2728

Mr. Dorr: And will you make note of that also, Senator?

Mr. Spooner: We have not been able to find any correspondence relating to the negotiations which preceded or accompanied the formation of the "AA" agreement.

2729

Mr. Burlingham: Is there any change in the wish of the Government as to the subject which they want to cover in this correspondence? The subpoena of June 12th, 1912, says: "The letters and letterpress or other copies of letters exchanged between you and your officers and agents and employees in Europe and in the United States at divers times in the years 1908, 1909, 1910, referring and relating to the formation, the terms, and execution and the maintenance of a certain written agreement entitled "AA" of February 5, 1908, between the Allan Line, the Cunard Line, The Anchor Line and various other lines therein mentioned, agreements entered into by said corporations at London, England, on or about March 25, 1908, relating to the operation by said lines of ships in competition with the ships of lines not parties to said agreement 'AA' and to the operation of 'fighting,' 'opposition,' 'competitive,' or 'defending' steamers by said corporations, parties to said agreement 'AA' from time to time, in the years 1908, 1909, 1910 and the fixing and payment of compensation therefor." That seems to be all there is about correspondence and the rest is in regard to the agreement. That is, it relates to "AA." Under the terms of the subpoena do you wish to make it any broader or have I misunderstood it?

2730

Mr. Dorr: I think that semi-colon there is misleading.

Mr. Burlingham: After the word mentioned is a semi-colon. Do you mean also correspon-

dence relating to agreements entered into by said corporations at London, England, on or about March 25th, or do you mean May 25th? 2731

Mr. Dorr: Yes.

Mr. Burlingham: May 25th, 1908, relating to the operation by said lines of ships in competition with ships of lines not parties to said agreement "AA" and to the operation of fighting, opposition, competitive or defending steamers by said corporations, and fixing the payment of compensation therefor, and the rules made by said lines as to the employment of their agents, together with correspondence with reference to all of those subjects from August 1st, 1907, until when? 2732

Mr. Dorr: To 1910.

Mr. Burlingham: I will produce them.

Mr. Dorr: Now about the custody of them?

Mr. Burlingham: I should think the natural place would be with the examiner. What I propose to do with your permission is to bring those up and then have particular letters which relate to it, which I am to determine, whether they relate to it or not, copied. I do not intend to let you go through my letter books and find anything else. You will have to take my word for it. I do not see that it is a writ of search you want. You have asked us to produce letters in regard to it and you have to trust somebody and I think I am the one you have to trust. You have not asked me to produce the letter books and you have asked me to produce letters. 2733

Mr. Dorr: The Government hasn't any disposition in this case to use this case as a means of prying into matters which are not relevant to the issues there. On the other hand, the Government does propose to assure itself that those documents and letters which do relate

2734

to the issues here are in fact produced, and we have secondary evidence, but have every disposition to rely on the good faith of counsel in the matter and I see no reason why we should not rely on your good faith.

Mr. Burlingham: I will produce them anyway here and I would rather have them with the examiner and we will look through them and have them copied, what related to the business, and take them away again.

Mr. Bullowa: I will do the same thing.

2735

Mr. Dorr: Of course, if there is any reason in the case of one of the witnesses to question the good faith of statements that have been made the Government will have to make a further examination of the witness, but going on the assumption that a search would be made in good faith by the defendants.

Mr. Bullowa: I will either allow the examiner, or the district attorney to examine my letter books in my office, or I will produce my books, put them in the custody of the special examiner, and go through them up here and pick out the letters which I consider relate to the subject of the subpoena.

2736

Mr. Dorr: The only question is one of time. Of course these things, were, as I understood, to be in such shape that we could dispose of it at this session. Now, apparently Mr. Burlingham is not in such shape and Senator Spooner has stated that while his documents are not in such shape he has no objection to trusting them to the tender mercies of the district attorney, and that is Mr. Shipman's position; he has already permitted the district attorney to make an examination of the letters which relate to the subject-matter.

Mr. Shipman: We have made a very exhaustive search in our correspondence in both di-

rections, New York and Germany, and part of the translations have not been completed as yet and they are not in such shape that we can readily submit them, but I will have them very shortly. 2737

Mr. Dorr: I haven't any objection to that so long as I understand you are entirely willing that we shall have opportunity to examine them. Then I assume, apparently Mr. Burlingham will produce his letters and Mr. Bullock his letter books?

Mr. Burlingham: Now, Mr. Dorr, are there any other documents that you want me to produce? I have gone over this very carefully with you and your associates once or twice trying to check them with the subpoena. If there are any others we have offered to produce them and I would like to know it. 2738

Mr. Dorr: I think you said, did you not, that you had been unable to locate that copy of the minutes No. 122 referred to in the cablegram to Mr. Sandford?

Mr. Burlingham: Don't you mean something about a different number, 22?

Mr. Dorr: Possibly it is 22 instead of 122.

Mr. Burlingham: I asked my client who was subpoenaed if they had minutes of meetings by the representatives of various conferences or the conference committees held on March 25th, 1908, appointing a committee of three and they informed me that they hadn't. I asked them for them under date of March 25th or May 25th, 1908, and they replied they had no minutes of meetings of representatives held at either of those dates. 2739

Mr. Dorr: I do not think we served any subpoena to produce them; we made an informal request for the minutes of the London conference.



2740

Mr. Burlingham: I have not produced any minutes of the conference in London because we haven't any. I think we have produced the minutes of the conference in either Germany or France.

Mr. Dorr: Beschlusse No. 1 or Beschlusse No. 2?

2741

Mr. Burlingham: Yes. You called for the minutes of meetings held at Paris, January 29th, 1909; we didn't have them. I have written to Mr. Morse in accordance with your suggestion asking if he can make a tabulation or chart showing the changes in rates for a series of a good many years, ten years or more, at your suggestion, and I have not heard from him yet. I have here the changes in rates from June, 1907, to December, 1911, but they are, as I said, the other day, very voluminous and they are not—

Mr. Dorr: Do those include the changes in rates for the so-called fighting steamers?

Mr. Burlingham: Yes, they do, because I see here on January 12th, 1910, I see the Graf Waldersee, reduced from \$35 to \$24, so I fancy they do.

2742

Mr. Dorr: There is no reason why the defendants should prepare any such tabulation.

Mr. Burlingham: I asked him to do it, but they have not answered yet. I think it was perhaps a misunderstanding on your part of Mr. Sandford's testimony. You had a notion apparently that Mr. Sandford kept in his office a table of the changes in rates, and apparently from Mr. Morse's statement they merely note the changes made at certain dates chronologically, and he says that he knows of no such summary statement as you wish.

Mr. Dorr: I simply assumed it was a summary statement from the general testimony.

I think undoubtedly this is what he refers to in his testimony.

Mr. Burlingham: I have it here now, if you want it.

Mr. Dorr: We should like that and we would like to go back of 1907, on that.

Mr. Burlingham: How far back do you want to go?

Mr. Dorr: Say 1903.

Mr. Burlingham: What date, January?

Mr. Dorr: Yes, January 1st, 1903.

Masses of slips showing changes in rates of third-class passengers marked Petitioner's Exhibit 237 for identification.

2744

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OSCAR L. RICHARD, recalled:

*Examination continued by Mr. Dorr:*

Mr. Richard: Mr. Dorr, since the last examination, I searched for and found the published rates that you asked for.

Q. Have you any tariff showing the inland rates as distinguished from the through rate or can we obtain that by deducting the local rate from the through rates quoted here? A. In most cases you can deduct the rate to the port; the difference is the rail rate.

2745

Q. And the port from which the inland rate is recorded is— A. Genoa.

Mr. Dorr: I ask that these be marked for identification.

Marked Petitioner's Exhibit 238 for identification.

*Oscar L. Richard*

2746

Q. I think I asked you to produce, Mr. Richard, a statement which I think you said you had of the gross income of the Lloyd Italiano Line; have you such a statement? A. I had such a statement for 1910.

Q. Did you make that up? A. No, sir, it was made up in Italy at the head office of the Lloyd Italiano.

Q. Have you it there? A. (Witness produces paper).

Marked Petitioner's Exhibit 239 for identification.

2747 Q. That is for the year ending December 31st, 1910? A. Yes, sir.

Q. When did the Mediterranean agreement go into effect, Mr. Richard, the existing Mediterranean agreement; do you recall? A. I believe it was in the winter of 1909.

Q. Have you any statement which shows the returns from the steerage business? A. I only have statements showing the returns of the whole business of the company.

Mr. Spooner: You mean that this is this statement?

Mr. Richard: No, sir.

2748 Q. Do you know what proportion of the Italian business is allotted to the Lloyd Italiano by the agreement of 1909, the Mediterranean agreement of 1909? A. No, sir.

Mr. Spooner: Do you mean by agreement or under the agreement?

Q. Under the agreement? A. No, sir.

Mr. Spooner: That is objected to as incompetent.

*Oscar L. Richard*

2749

Q. Have you any statement for the gross income for 1911? A. That is the statement for the business in 1911.

Q. Is that an official report of the company? A. Yes. I also have them for 1910, 1909 and 1908.

Report for 1911 marked Petitioner's Exhibit 240 for identification.

Q. Have you produced copies of two returns of the Lloyd Italiano corporation tax law for 1910 and 1911 respectively? A. Yes, sir.

Q. Have you produced the return made by your company to the Commissioner of Internal Revenue under the corporation tax law for 1910? A. Yes, sir (producing paper). 2750

Mr. Dorr: I ask that it be marked for identification.

Marked Petitioner's Exhibit 241 for identification.

Q. And for the year 1911? A. Yes, sir, (producing paper).

Mr. Dorr: I ask that that be marked for identification.

Marked Petitioner's Exhibit 242 for identification. 2751

Mr. Spooner: Personally you know nothing about the character of this report; you did not make it up, did you?

The Witness: I did not make it up.

Mr. Spooner: You do not undertake to testify whether it is correct or not, do you?

The Witness: No, sir.

Q. Did you testify, Mr. Richard, in your opinion you thought that the operation or existence of the pool agreement or conference agreement was neces-

*Oscar L. Richard*

2752

sary for the protection of the weak? A. I testified to that effect. In fact I think if the court should hold the present working agreement illegal—

Q. The question merely calls for whether or not that was not your opinion; whether you stated that opinion—now, Mr. Richard, do you regard the effect of the combined action under such an agreement as a protection to the lines which are outside of that agreement? A. If certain conference rules were changed it would make no difference to outside lines.

2753 Q. Did you find that the effect of the conference agreement as it existed while you were trying to run the Russian Volunteer Fleet to be a protection to the weak?

Mr. Spooner: Objected to as leading.

A. Yes, in the form that it existed.

Q. Was it a protection to the weak who were members of the agreement or protection to the weak who were not members of the agreement? A. I believe I misunderstood your first question. Will you please repeat it?

2754 Q. (Question read.) "Did you find that the effect of the conference agreement as it existed while you were trying to run the Russian Volunteer Fleet to be a protection to the weak"? A. No, sir.

Q. It would be a protection to the weak if they were members to the parties to the conference agreement? A. Yes.

Q. But not if they were not parties to it? A. No, sir.

Q. The effect of the combination action of the lines while it would protect any weak line that was a party to that agreement, would have a tendency to put out of business a line that was not a party to it, would it not?

A. Yes.

Mr. Spooner: Objected to as leading and further, as argumentative.

Q. And it would have the effect of making it more difficult for a new line to establish itself in the Continental business?

Mr. Spooner: Same objection.

A. Yes, sir.

Q. But for weak lines which were in the conference you say that you think it would be for their protection? A. Yes, sir.

Q. They would be assured of a certain proportion of the business by the operation of the traffic agreement which apportions them a certain amount which they might not otherwise be able to obtain? A. You are talking about the agreement in Europe or the conference in the United States? 2756

Q. I am speaking now of the agreement under which the traffic was apportioned between different lines and the agreement under which the conference lines agreed that their agents should not represent any outside line. Now, if you want to separate those two aspects of the situation— A. I am not familiar with the agreements that are made in Europe, I know about the conference rules here.

Q. You have had information that the traffic was apportioned, the steerage traffic was apportioned, have you not? A. Yes. 2757

Mr. Spooner: I make the same objection.

Q. And the effect of that apportionment would be to insure the weaker line the proportion of the traffic which it might not otherwise be able to obtain in competition with the strong? A. Yes.

Q. And so protect that weaker line? A. Yes.

*Oscar L. Richard*

2758

Q. And further the fact that the weaker line was capable of operation on the same terms as the others by the conference would also be an advantage to it?

Mr. Spooner: I make the same objection.

A. Yes, sir.

2759 Q. I think you said that you regarded a rate of \$30 to Rotterdam as a reasonable rate for certain ships, \$35 for other ships, \$40 for other ships; now, what is the particular ship that you have in mind for which a \$30 rate is reasonable? A. There are some ships burning 65 tons a day can be run cheaper than those that burn 150 or 250 tons a day.

Q. What is the tonnage of a ship that you have in mind and its speed and its freight capacity, and its stowage capacity, and its cabin capacity, the ship that you would charge \$30? A. Take a ship of 5,000 tons.

Mr. Bradley: What kind of tonnage do you refer to when you say 5,000 tons?

The Witness: 5,000 gross tons, a speed of about fourteen knots; stowage capacity about twelve hundred.

Q. Cabin capacity? A. That is not so very important.

2760 Q. What cabin capacity have you in mind for this ship? A. Twenty-five in the cabin.

Q. And how about the freight capacity? A. Freight capacity about 2,000 tons.

Q. What would be the cost of such a ship which you have in mind? A. To purchase?

Q. Yes? A. That is more than I can say. I never purchased any.

Q. What should you say would be the value of such a ship? A. About \$700,000.

Q. What should you say would be the cost of such a ship, the cost of the coal of such a ship? A. The consumption of such a ship?

Q. Yes, on a trip to Rotterdam? A. About seven hundred and fifty tons.

Q. That is for the trip? A. Yes, approximately.

Q. What would the insurance be of such a ship for such a voyage? A. The insurance would be eight or nine per cent.

Q. For the voyage or the year? A. For the year.

Mr. Bullova: Wouldn't that depend upon the age of the ship?

Q. What would be the cost per capita of feeding the steerage passengers for a day? A. About thirty cents a day.

2762

Q. What should you say would be the steward expense for a ship? A. I don't know.

Q. What should you say would be the officers and crew of such a ship? A. I don't know, their expenses are generally paid abroad.

Q. What other items have you in mind which go to the cost of operating such a ship? A. Depreciation of the ship.

Q. What would you charge for depreciation on such a ship? A. Five per cent.

Q. Five per cent a year? A. Yes.

Q. What else; what other items? A. Wharfage.

Q. What would that amount to on a voyage? A. 2763  
Oh, about \$1200.

Q. \$1,000 or \$1,200 for the wharfage? A. Yes.

Q. Per voyage? A. Yes.

Q. Stevedoring? A. Yes.

Q. What should you say the stevedoring charges would be? A. Everything included would be about \$4,000.

Q. You mean the port expense for each voyage or what? A. No, port expenses would be about eight or nine hundred dollars.



*Oscar L. Richard*

2764

Q. What are you including in the \$4,000? A. Cooperage, clerk hire, watching and discharging, night service, if any, Custom House inspectors.

Q. What would the earnings of freight be of such a ship per voyage?

Mr. Spooner: It depends on how much she carries, don't it?

The Witness: Yes; she may carry only two hundred tons.

Q. Assuming that she has a cargo? A. Oh, about \$7,500 or \$9,000.

Mr. Spooner: An average?

2765

The Witness: No, for the full ship.

Q. How much of that \$30 do you regard as net profit? A. For the profit?

Q. For the net profit, yes? A. I don't know. I replied at the last hearing you would have to take the whole year's working of all the steamers of the line to arrive at a net profit.

Q. Well, how much would you— A. You cannot take it steamer by steamer. One steamer may show a loss and one a profit.

Q. Taking this steamer and assuming that it sailed with two-thirds of its capacity of passengers, how much of the \$30 would you regard as profit? A. I am unable to say. I have never computed it. I have nothing to do with it. That is done at the home office abroad.

2766

Q. How much of that \$30 would you regard as actual expense for the voyage per passenger? A. I don't know, I have just submitted a list of corporation taxes showing there was a loss of the business done in America, so according to that there must have been a loss.

Mr. Dorr: I move to strike out the witness's statement as to what the written document shows.

Q. The corporation tax return that you have produced does not show, does it Mr. Richard, anything about the eastbound business? A. All the business done in America and the proportionate expenses of that business.

Q. They do not show the freight money earned on the other side? A. On the other side, it does not show any westbound business.

Q. It does not show the passenger tickets purchased on the other side, do they? A. I submitted a list of all the business done by the company both westbound and eastbound.

Q. Just answer my question, if you will, Mr. Richard; do they include the passage money paid on the other side? A. Not the corporation tax.

2768

Q. It does not contain any analysis of the freight business and steorage business, does it? A. I will have to look (after examining paper).

Mr. Beers: Doesn't the document speak for itself?  
The Witness: No, sir, it does not.

Mr. Spooner: You have the document before you, haven't you?

The Witness: A copy of it, yes, sir.

Mr. Spooner: Has it been marked for identification?

2769

Mr. Bradley: It has been marked for identification, but it is not in evidence.

Q. Have you, yourself, made any calculations as to the expense of running such a ship? A. No, sir, never.

Q. What is your connection with the shipping business, Mr. Richard? A. We are the general agents; we engage their passengers and sell prepaid tickets for which we charge a percentage commission.

Q. Do you fix the rates? A. We do not.

*Oscar L. Richard*

2770

Q. That is fixed on the other side? A. Yes, sir.

Q. Do you fix the freight rates? A. No, sir.

Q. Are you concerned with the financial management of the company, authorized to collect the freight charges, the passage money such as is paid in this country and to transfer any surplus to the other side?  
A. That is all we do.

Q. Are you the purchasing agent for the supplies for the steerage? A. No, sir.

Q. Do you purchase the coal? A. We have made the contract, yes, sir.

2771 Q. You make contracts for the stevedoring? A. Yes.

Q. Do you fix or pay the wages of the seamen and stewards? A. No, sir.

Q. Officers? A. No, sir.

Q. Engineer force? A. None of the crew.

Q. Well, as a matter of fact, then your duties as general agent are to arrange for such tickets and collecting freight money— A. The engaging of cargo.

Q. You stated that \$700,000 would be the cost of a ship of 5,000 tons such as you have described?

Mr. Burlingham: When?

Q. At the present time? A. About that.

2772 Q. Do you think you could secure such a ship for \$750,000; you think you would have no difficulty in securing \$750,000 insurance on such a ship? A. I am hard of hearing.

Q. Do you know of any such ship being insured for \$750,000, a fourteen knot ship, \$750,000, fourteen knot ship, freight capacity 3,000, gross tonnage 5,000, steerage capacity twelve hundred, cabin twenty-five? A. No, I don't know of any.

Q. I think you stated that for a certain other kind of ship you would regard \$35 as a reasonable rate to Rotterdam; what ship did you have in mind; what

is the gross tonnage? A. I should say the different steamers of the Holland-Amerika Line would be entitled to a \$35 to \$40 rate.

Q. Give me the gross tonnage of such a ship as you have in mind? A. I have in mind the Rotterdam of about 24,000 tons, which ought to be entitled to a \$40 rate.

Q. Twenty-four thousand gross tons? A. Gross.

Q. What is the cost of such a ship? A. I don't know.

Q. What is the ship that you have in mind, not any particular ship; not the Rotterdam in particular? A. That is the only line that runs to Rotterdam outside of the Mediterranean line.

2774

Q. There are several you have in mind, a ship of some definite carrying capacity when you say for other ships \$35 would be a reasonable rate.

Mr. Bradley: He said \$35 or \$40.

A. \$35 to \$40.

Q. That is, you are not distinguishing between a \$35 ship and a \$40 ship? A. Well, there are some smaller steamers for which \$35 would be a reasonable rate; smaller than the Rotterdam, I mean.

Q. Well, what is such a steamer? A. If I had the list here I could show you.

2775

Q. What would be the tonnage of such a steamer?

A. About ten to fifteen thousand tons.

Q. Gross tons? A. Gross tons.

Q. And what would its speed be? A. Fifteen or sixteen knots.

Q. What would its freight capacity be? A. I don't know.

Q. What would its steerage capacity be? A. I don't know.

Q. How can you estimate; you were making your estimate then on what would be a reasonable rate for

*Oscar L. Richard*

2776

it without having in mind any steerage capacity? A. I am judging what the reasonable rate would be on the speed and class of steamers.

Q. Wouldn't the steerage capacity have a direct bearing on what the reasonable rate would be? A. No, sir.

Q. Would it have a bearing on how much money the ship could earn? A. You would have to take the earnings of the whole year; the steamer might have—

2777 Q. The earnings of the ship are made up from different voyages, are they not? A. Yes, but the steamer may have capacity for twenty-five hundred steerage passengers and still only carry two hundred.

Q. If she had that capacity and had freight averaging two hundred and fifty—that is, if she was to earn a profit on the investment which had been invested in her, is that it, if she only carried an average of two hundred and fifty passengers then she would have to charge a higher rate than if she were carrying her complement of twenty-five hundred passengers, would she not? A. It seems to me the way you want to figure that steamer—if the steamer has twenty-five hundred capacity and the rate is only \$35 and she carries ten per cent of that the rate will be one hundred and twenty for each passenger, that would be three hundred and fifty dollars.

2778

Q. (Question read)? A. She would have to charge a higher rate if she averaged two hundred and fifty all the year around.

Q. And if her capacity were only two hundred and fifty steerage passengers, the same ship if she were to earn a remuneration on the investment would have to charge a higher rate than a ship of larger capacity, would she not? A. Such a steamer would never be put in the service.

Q. The capacity does have a direct bearing on the earning capacity of the ship, does it not? A. It seems

to me ridiculous to put such a steamer in the service, it would be no good at all.

Q. Just answer my question, Mr. Richard, the steerage capacity of a steamer has a direct bearing on the earning capacity, has it not? A. Yes, sir.

Q. And in order to determine what the earning capacity of that steamer is you have got to look to the steerage capacity, have you not? A. Yes, sir.

Q. And you determine what rate will in fact earn a return on the investment involved in building such a ship and operating it, you have got to look to the steerage capacity and to the number of passengers which she actually carries, have you not? A. Yes.

2780

Q. Well then, you have stated that this ship it would be reasonable to charge \$35, but you have stated that you have no idea of what the steerage capacity of the ship would be; is that your view still? A. Well, I know it would not be under a thousand; it might be under two thousand.

Q. If the steerage capacity of a 5,000 ton ship was twelve hundred, do you mean to say that the steerage capacity of a 15,000 ton ship would not be larger? A. It might be larger if the space is not taken up by second cabin or first cabin accommodations.

Q. What would the first or second cabin accommodations of such a ship be that you have in mind? A. I don't know.

2781

Q. Have you made any analysis of the cost of operation of this ship that you say could reasonably charge \$35 for steerage traffic with the view to ascertain what the earnings of such a ship would be for cabin passengers, what they would be from freight and what they would be from the steerage passengers? A. No, sir, I can only judge by the dividends that the steamship companies declared previous to 1909.

Q. Have you made any analysis of the cost of the steerage business? A. No, sir.

2782

Q. What would you say would be the expenditures or costs of coal of such a voyage? A. The voyage of such a steamer?

Q. Or what would you say would be the consumption of coal of such a steamer? A. Of what?

Q. Of a steamer of 15,000 tons capacity which you have in mind, with a speed of sixteen knots I think you said with a gross tonnage of 15,000 tons? A. I can only tell you approximately; probably 2,000 tons would be the consumption of coal from New York to Rotterdam.

2783

Q. You don't know what the cost of such a steamer would be? A. No, I do not know what the actual consumption would be.

Q. And you don't know what the actual cost of such a steamer would be? A. No, sir.

Q. The Italian line cannot operate as cheaply as the lines running to the North Atlantic, can they, Mr. Richard? A. No, sir; they have a longer distance to travel.

Q. Are they run as economically or haven't you any special familiarity with the figures on that? A. I have no knowledge of it.

Q. You don't know the relative expense of operation? A. No.

2784

Mr. Dorr: I will offer in evidence press copy of letter from the defendant Adrian Gips to the Holland-Amerika Line at Rotterdam under date of May 13th, 1908.

Mr. Beers: Objected to as incompetent and not binding on the other defendants.

Received as Petitioner's Exhibit No. 243.

Q. Have you been able, Mr. Richard, to determine any more definitely the period during which your line booked eastbound passengers to continental points? A. Yes.

Q. Haven't you been able to determine that any more definitely? A. April 17th, 1908, until December, 1908.

Q. That was the only time your line ever booked continental passengers? A. That is the only time the Lloyd Italiano booked continental passengers.

Q. How about the other Mediterranean Lines? A. They were all joined together.

Q. All booking eastbound at that time? A. Yes. Here is the list (producing paper).

Q. Had any of those steamers booked prior to that time? A. No, sir.

Q. When did they cease booking? A. During December.

2786

Q. 1908? A. Yes.

*CROSS-EXAMINATION by Mr. Burlingham:*

Q. Mr. Richard, did I understand you to say in answer to Mr. Dorr's question that you thought a combination like that of the North Atlantic Conference was good for the weak lines in it? A. In the conference.

Q. Why; how? A. Because it protected them in every way; put them on a parity of the stronger lines.

Q. And with regard to outside lines you said that it was not a protection or good for them, and why not? A. On account of rule 9 to which I referred at the last hearing.

2787

Q. Do you refer to rule 9 of the agency rules? A. Agency rule 9 which prevented conference agents from representing any outside line.

Q. Is this the rule 9: "Agents are prohibited from booking passengers for any steamer except those of the lines members of the Continental, Mediterranean and the North Atlantic Passenger Conferences unless the conference gives express permission in writing," is that the rule? A. That is the one I refer to.



2788

Q. I show you circular 1, six series of the American Conference dated New York, September 15th, 1905, that contains the rule, doesn't it? A. That is the rule.

Q. And at that time, the time that was issued, circular No. 1 of September 15th, 1905, you represented the Prince Line? A. Yes.

Q. And that was in the Mediterranean Conference? A. Yes.

Q. And you were a party to those rules that were then issued? A. Yes, sir.

Q. You had no objections to it then, I suppose, when you were inside? A. Yes, I did.

2789

Q. And you have always felt that way about that rule, have you? A. Yes, and I wrote repeatedly to Mr. Sandford about it.

Q. And is that the only reason why you say that the Conference hurts the outside line? A. That is the only reason.

Q. Then, that is the only exception you take to the Conference? A. That is the only exception, yes; otherwise I think it is a good thing.

Q. That rule has been in existence for thirty years or more, hasn't it? A. As long as I can remember.

2790

Q. I show you the digest of rules and regulations of the North Atlantic Steamer Traffic Conference, dated November, 1879, and call your attention to rule 47, which reads as follows: "No agents of a conference line shall book passengers by any steamship not represented by a member of this conference or of the Continental Conference." Do you remember the rule as far back as that, do you? A. I remember it as far back as the Continental days, yes.

Q. And that has always been the rule, has it? A. Always been the rule.

Q. Now, with reference to this matter of determining the reasonableness of charges by reference to the capacity of the steamship, in determining the ques-

tion of reasonableness you have to take into consideration a great many elements, don't you? A. Yes.

Q. Could you determine the matter of reasonableness of steerage rates without considering the first cabin capacity and rates, the second cabin capacity and rates and freight rates? A. Yes.

Q. Wouldn't you have to consider all of those? A. Yes.

Q. And does it follow that because a steamer of 5,000 tons can carry 1200 that a steamer of 15,000 tons gross will carry 3,600 steerage? A. No, sir.

Q. I suppose a steamer like the Mauretania or the Lusitania cannot carry as many steerage passengers as they are at present equipped, as a steamer of much less tonnage, isn't that so? A. I think they carry six or seven hundred.

2792

Q. And in the same way some steamers which carry a comparatively small number of steerage passengers are very heavy cargo boats, are they not? A. Yes.

Q. And some of the White Star boats like the Baltic and the Celtic are very large cargo boats, aren't they? A. Yes.

Q. And they haven't the same steerage capacity as the somewhat smaller boats, is that right? A. I don't know; I don't know what their capacity is.

Q. I don't ask you to state accurately what the capacity is, but your familiarity with steamers—you know that steamers differ? A. Yes. Large boats do not carry the same number of steerage in proportion to a smaller boat.

2793

*CROSS-EXAMINATION by Mr. Bullock:*

Q. Mr. Richard, when you first went into the business forty years ago what was the steerage rate across the Atlantic? A. Thirty dollars to Hamburg and forty dollars from Hamburg.

2794

Q. Wasn't it higher than that at one time? A. I think that was the rate in gold. It made a higher rate in currency; but those were 2,500 ton boats.

Q. What did that \$35 or \$40 in gold mean in currency? A. I don't recollect what the premium was at that time; it may have been 20 premium or something like that; that would be about \$48.

Q. When you became the agent of the Volunteer Fleet did you fix the rates? A. Yes.

Q. How did you fix those rates? A. I fixed them at what I thought was reasonable rates.

2795

Q. Didn't you fix them under what you knew was the established rate of the Conference Lines? A. There wasn't any line to Libau.

Q. Well, to Rotterdam? A. Probably.

Q. And there were rates to Libau and places in Russia over the Continental lines, weren't there, and the British lines? A. Yes.

Q. And you fixed your rates to Libau and places in Russia so that they were less than the rates of the lines in existence? A. They were naturally less because the distance was less from the port to the interior point.

2796

Q. Is the railroad rates from Rotterdam to the places in Southern Russia less than from Libau to places in southern Russia? A. I couldn't tell without looking at the tariff.

Q. Isn't that your impression, that there is a differential in railroad rates from Rotterdam, Antwerp, Bremen and Hamburg and Libau? A. Yes.

Q. And in fixing your rates you took advantage of that, didn't you, so that the rates direct to Libau would be less than the rates of the established line? A. Naturally, the rate to the port would be less than by way of a port by rail to that port.

Q. You fixed a competitive rate, did you not, so that the rate of your line would be less? A. The rate was less than by rail from another port to that port.

Q. And you did that in order to get the business away from the established line? A. In order to get our share of business, yes. You might as well take a steamship going from a continental port down to Galveston; they can't book a ticket through to New Orleans cheaper than you can by way of New York because the rail difference is less.

Q. You got your share of the business, didn't you?  
A. We got our share, yes.

Q. And the only thing you objected to was that you had established the precedent of lowering the rates and the other lines met it, didn't they? A. No, sir; I have always been in favor of high rates because we are on a percentage commission and we like to see the stockholder get something.

2798

Q. But you got your share of the business by cutting the rates? A. We didn't cut the rates; we followed the others.

Q. Didn't you start in cutting the rates in the first instance? A. No, sir; followed the others.

Q. The others followed your line? A. Perhaps the Russian East Asiatic did, but we followed the others.

Q. All the steerage business does not go through Ellis Island does it, today? A. All except those citizens.

Q. There is a proportion of those in our ships? A. Yes.

2799

Q. If they don't go through Ellis Island they are in the hands of the runners of the streets, aren't they?  
A. Yes.

Q. And the effect of the conference was to do away with those runners, wasn't it? A. That was one of the after effects. The conference has been in existence—the Continental Conference has been in existence since 1870 about.

Q. And the strict enforcement— A. And the strict enforcement is only since about ten or twelve years.

2800

Q. And the strict enforcement of rule 9 has done away with runners? A. I don't know that is so. There is a different rule for them. You look at the Conference rules and you will find different rules about runners.

Q. I have, and the strict enforcement of rule 9 and the strict supervision over the agent would prevent runners? A. That is probable.

Q. Now, wasn't the agreement with the Northwest Transport Line which you had that you were not to pay the money received from prepaids until the passenger was actually landed, an unusual contract? A. I don't know. I thought it was a good agreement on my part.

Q. You never made that with any other line, have you? A. No, sir.

Q. That was the only line you ever made that agreement with? A. Yes.

Q. You knew about these control stations in Germany, did you not? A. Yes.

Q. You know the regulations of the Government? A. Yes, I also considered it then an outrage, the way they handled passengers that were not forwarded by one of the steamers of the pool lines.

Q. Do you think the action of the German Government was an outrage? A. Yes, and I don't think it would be tolerated here for a moment.

Q. And you think that was influenced by the steamship company, the members of the Conference? A. Yes, I think it was done primarily and probably is done still by the steamship company and countenanced by the German Government.

Q. That is, you think the German Government is the tool of the different steamship companies in plain words? A. Not a tool; they countenanced it, that is all.

Q. You think they do it deliberately ? A. I think they know of it. I have no interest in the matter now, but still I think they do not show a bit of humanitarian feeling in sending back these poor immigrants.

Q. Isn't it a protection to the German Government to prevent Russian subjects and alien immigrants having no means of support staying in Germany? A. You refer to immigrants holding prepaid tickets?

Q. Yes. A. They would not be supported by the German Government; they hold tickets right through to the United States.

Q. The same regulation is provided for emigrants coming from the United States to Germany, that there are control stations at Rotterdam and Hamburg? A. I understand that was instigated recently by the pool lines. Formerly they went right through until the pool lines informed the German Government and they took measures to hold them up at the frontier.

2804

Q. You think the German Government is influenced by the action of the pool lines? A. Yes.

Q. You say that advisedly, do you? A. You asked me if I thought it. Well, I think so.

Q. Your chief objection to the conference is rule 9? A. Yes.

Q. And that agents of the conference could not act for an outside line? A. Yes.

2805

Q. Now, who built up the agents of the conference, the lines? A. Primarily my firm.

Q. That is, just the answer I was expecting. Your firm, and your firm built it up as the agent for what line? A. Of various lines?

Q. Name them? A. Hamburg Line to begin with, in 1847 or 1848.

Q. And you were paid by the Hamburg Line for your efforts? A. Yes.

Q. And did those agents belong to your firm or to the company who paid you for building that up? A.

2806

The company paid us a percentage of commission for all our services.

Q. How long ago is that? A. 1847?

Q. Yes. A. That is sixty-five years ago.

Q. But the Volunteer Fleet had not built up any system of agents and from which it instituted its line?

A. No, we have a net work of agency that we inherited from the time we were agents of the Hamburg Line and agents of the Austro-Americano Line.

Q. You had built up the agency system of the Austro-Americano Line under pay of the Austro-Americano Line? A. Also on a commission basis.

2807

Q. Do you know anything about the freight rates?

A. I guess so.

Q. Is that regulated by the supply and demand? A. Yes.

Q. Entirely? A. Entirely.

Q. The freight rate increased materially in the last year or two years from what there had been for the previous six or seven years? A. Yes, especially this spring to the Mediterranean.

Q. Was that the effect of any agreement or the natural law of supply and demand? A. Natural law of supply and demand.

2808

Q. The rates in the previous period of five or six years, freight rates, had been below a remunerative basis, had they not? A. Yes.

Q. Owners were tying up their ships because they would not pay? A. Partly, yes.

Q. As a matter of fact if the regular line increases the rates the high competition sets in? A. Yes; perhaps tramp steamers are sent over.

Q. And concerns such as the Standard Oil and the Steel Corporation established their own lines? A. Yes.

Q. To meet the abnormal rates which they think the lines are charging? A. Yes.

Q. So that the regulation of rates is governed by economic reasons generally? A. Entirely.

Q. And it depends not only upon the conditions in the United States and in Europe, but the conditions in South America and Australia? A. Yes.

Q. Is it necessary, therefore, to have some supervision over the rates on the sea because under natural conditions there is no stability to them? A. There isn't any so far as the freight rates are concerned. There is stability at the present time as far as the passenger rates are concerned, especially steerage. In fact steerage rates in Italy are fixed by the Italian Royal Commissioner of general emigration, and they are about forty dollars.

2810

Q. You cannot charge below a certain amount in Italy? A. No, sir.

Q. And you cannot charge above? A. It is a fixed rate.

Q. A fixed minimum and a fixed maximum? A. It is fixed every month.

Q. Do you know how it is fixed? A. According to the steamer.

Q. How does the Government arrive at the basis of the rate? A. They will take a steamer that makes the passage a little slower than some other steamer and fix the rate at 185 liras which is about thirty-seven dollars, and they will take another which runs a couple of days faster and make the rate 210 liras, about forty-two dollars.

2811

Q. Do you know whether the Government in Italy also fixes who can sell steerage passenger tickets? A. The general offices have their own agents all over Italy.

Q. Are agencies under any Government supervision too? A. Yes, they are licensed.

Q. They are licensed by the Government of Italy? A. Yes.



2812

Q. And every man can not go and sell tickets like here? A. No, sir. And I was going to say before that if the Court should hold this working agreement illegal the commissioner of general emigration of the United States or some such commissioner as the Interstate Commerce Commission will have to be empowered to fix rates also, otherwise some of the steamers, if not some of the lines, especially the weaker lines, will have to go out of business entirely, with the result that commerce between the United States and Europe will be curtailed.

2818 Q. Do you know the official name of the— A. The restrictive measures of emigration will have the same effect too.

Q. Do you know the official name of the Northwest Transport Line, the corporate name? A. The Northwest Shipping Company, I believe.

Q. The Northwest Shipping Company, Limited?  
A. Yes, I think so.

*CROSS-EXAMINATION by Mr. Spooner:*

2814 Q. I understood you said it is impossible to ascertain the cost of carrying steerage passengers up on the basis of the rate and expenditures of a particular ship on a particular voyage? A. Yes.

Q. That in order to reach it with any accuracy you have to take the whole year's operations? A. That is right.

Q. Would it in your judgment be any different from an attempt to fix the cost of carrying steerage by rail in this country, by getting at the cost of the particular train; it is about the same principle isn't it? A. I think so.

Q. And the only way they have discovered of ascertaining the cost is by taking the year's business?  
A. Yes.

Q. And that is the truth as to the ocean carriage by steerage as well as it is to land carriage? A. Yes, I could never understand why the general public had such an exaggerated idea of the profits of steerage business.

Q. Have you testified—I don't think you did, but I am not sure—that any line was driven out of business by the Atlantic Conference? A. If I testified to that? Yes, I think I have; I don't know whether I did.

Q. Was any line driven out? A. The Russian Volunteer Fleet was driven out.

Q. Was that driven out by the Conference? A. By low rates, yes, that were made in competition. 2816

Q. Are you certain of that? A. Yes, that is what I was told by the former president at the time the line was running, and the general manager at Libau told Mr. Fourman, who has been testifying here.

Q. You have seen the letters of the president of that line in which he says that is not true? A. I saw that.

Q. Do you think he does not know? A. He ought to know.

Q. He has better and more accurate knowledge than you, hasn't he? A. Certainly.

Q. Isn't he a truthful man? A. Yes, a man of great honor.

Q. Do you mean then to put your judgment upon that question against his formal statement? A. I didn't give you my judgment; I am just telling you what the former president told me and what the former manager in Libau told Mr. Fourman when he was over in Libau. 2817

Q. And Fourman told you? A. And Mr. Fourman then told me.

Q. About the control stations, when did they originate, Mr. Richard? A. I don't know.

Q. Well, you have an excellent memory and you have had long experience, I wish you would think

2818

about it a moment and see if you cannot remember about the time that they originated? A. I could not tell within a few years; I should think at least fifteen years ago.

Q. Isn't it a fact that they originated about 1892 or 1893 or along there? A. It may be. Our agency was, I think, in 1892 with the Hamburg Line in New York; we were agents until 1892.

Q. Is it or is it not a fact according to your recollection that some people came in on the steamer in 1892 with cholera and were turned back who were found to come from Russia? A. Yes, they were over on Fire Island on the steamer Roumania, I believe.

Q. They came from Russia? A. I don't know where they came from.

Q. You don't remember that? A. I remember the circumstance, yes.

Q. Have you ever heard or have you not that the Government of the United States ascertaining the origin of those people requested the German Government to take measures to prevent the further transit of people from that territory through Germany to the United States? A. No, sir.

Q. Afflicted with diseases I mean and inadmissible under the immigrant laws of the United States? A. I have not heard of that, but it would be perfectly proper.

2820

Q. You do not testify that that is not true? A. I say it would be perfectly proper. No, I don't know anything about it, whether that emanated from the United States Government or not.

Q. You had some objection to people being turned back over there? A. Yes, who were not afflicted with any objectionable disease.

Q. They had not been through the control stations, had they? A. They did not get as far as that, they would get as far as that and then be turned back.

Q. They had not been examined, had they? A. I don't know. All I did know that the passengers holding those tickets were not allowed to pass through, when they got their tickets—when they waited there for their tickets to be sent, then they were allowed to pass.

Q. Well, now, let's see about that. Assuming it to be true that they were examined, you say you don't know whether they were or not— A. No, because I wasn't there.

Q. Very well. If they were examined and found to be unsatisfactory in respect to health it was the right thing to turn them back, wasn't it? A. Certainly.

2822

Q. It would have been cruelty to have allowed them to proceed, to come across, wouldn't it, to Ellis Island and then be sent back? A. There is no question about that at all. The only question is about those being turned back who were entitled to go through.

Q. You don't know that anybody turned back were entitled to go through at the time? A. I have received any number of letters.

Q. You get all sorts of letters, but do you know of a case yourself where an immigrant was turned back who was entitled to come through? A. I did at the time.

Q. If you did at the time, do you now? A. This is a matter of over four years ago. 2823

Q. That is not very long in these days? A. I cannot keep the names of these immigrants in my head, but you can put it down as a fact that that is true, that people that were entitled—who had Russian Volunteer Fleet tickets who were not allowed to pass by the frontier until they had tickets of one of the conference lines.

Q. Why should that be so; is there any reason compatible with the dignity and honor of Germany that would leave that be so? A. That is what I say, it is a disgrace.

*Oscar L. Richard*

2824

Q. Do you think it is a disgrace? A. Yes, I think they ought to hang their heads in shame.

Q. I think they ought. I have never been accustomed to think the German Government did things of that sort; I may be wrong about it and you may be better informed. A. I wouldn't say the Government, but I say the paid officials there.

Q. You know, do you not, that long ago Germany enacted a law which precludes foreign steamship companies or corporations from doing business in Germany in the immigrant business without a license from the Government? A. I testified to that before.

2825 Q. Did the Russian Volunteer Fleet have that license from the Government? A. They did not do business in Germany.

Q. Why didn't they forward their passengers from Libau? A. Because some of them preferred to travel by way of another port in order to be on the ocean so many days less.

Q. But they could have forwarded them to Libau and they would have gone along, wouldn't they? A. Yes, but they would have been on the steamer three days longer.

Q. But they knew that when they took them on board the steamer, didn't they? A. They were not on board when they were returned.

2826 Q. Oh, you mean the people who were sent back? A. Yes.

Q. There was some testimony here that a good many of these people had had their baggage sent on to Rotterdam, hadn't they? A. Yes.

Q. Who were themselves turned back? A. Yes, at the frontier.

Q. And some of them were advised to buy tickets on the Holland-America, weren't they? A. Yes Those who were sent back.

Q. Yes. A. Oh, by the Holland-America, North German Lloyd or the Hamburg American or the Red Star Line.

Q. If a steerage passenger had come to the frontier and you found that they were not entitled to proceed because they had not been examined at the control station and you would be responsible to the Government if you permitted them to proceed and the man had remained—there was a woman who testified here that she—wanted to know which way she would go, you would tell her to go to Rotterdam, wouldn't you, if her baggage was there? A. Yes.

2828

Q. Follow her baggage? A. Yes.

Q. You would think it was a kindness to do it, wouldn't you? A. Yes.

Q. So that it would not be inferable from that fact that the advice was ulterior and intended to promote against the interest of the individual, the interest of the line in the case I put to you?

Mr. Guiler: I think that is rather argumentative.

Mr. Spooner: I will withdraw it if it is argumentative.

A. Senator, there is no use questioning me on that point. I think Mr. Lederer will admit all I have said. 2829

Q. Mr. Lederer will not and I have taken pains myself to study the system over there, and the laws or regulations of Germany. If you sell a ticket to a Russian here to go to Russia would you sell the ticket to a German port? A. If I had the agency of all the lines? I would tell him to take his choice.

Q. No, take the line you represented, take the Russian Volunteer Fleet? A. Well, they generally demand a ticket to a certain port when they are over here; they are not so ignorant; they are more civilized after they have been here a while; they know just

where they want to go to and just which way they want to go.

Q. You would not advise them to go through Germany, would you; take a Russian going back to the old country? A. No, I would tell them to take the more direct route.

Q. Why? A. Because it would be so much nearer home.

Q. Not only that, but there would not be obstruction in his passing, would there; there was a way he could go without running into Government regulations? A. If they have a Russian passport they are allowed to go through Germany I understand at the present time.

2831

Q. Is that literally true? A. I think it is.

Q. Without regard to health and means and all that? A. I don't know what the regulations are now. The time we represented the Russian Volunteer Fleet they could go through.

Q. It has been a good while since they could go through, hasn't it? A. It is four years since we represented that line.

By Mr. Bullowa:

2832

Q. Mr. Richard, if when you sold a prepaid ticket you had instructed the immigrants intending to travel on that prepaid ticket to come to Rotterdam via Basle, they would not have been turned back at the German frontier, would they? A. We did instruct them later on when we found there was so much difficulty, but, of course, they had to pay so much more for their passage.

Q. You knew of the regulations, did you not, at the German frontier? A. Yes.

Q. Now, these immigrants that were turned back and who testified, did you instruct them that they could come by way of Basle to Rotterdam without any trouble. A. After we found they were being ob-

structed at the frontier, yes. We notified our agents and took for granted they would notify the immigrants.

Q. Before you went into this immigrant business did you take the trouble of instructing yourself as to the rules and regulations of the foreign government regarding transportation of immigrants? A. No, I was not acquainted with those frontier stations at that time.

Q. If you had been acquainted with those regulations these immigrants would not have been turned back, would they? A. Probably not.

Q. That is, they would have been properly instructed if you had taken the trouble to acquaint yourself with the rules and regulations, is that right?

2834

Mr. Guiler: I object to that.

A. Yes.

*RE-DIRECT EXAMINATION by Mr. Guiler:*

Q. Now, Mr. Richard, in the matter of competition between the various lines, did you ever notice that the number of steerage passengers fell off when the rates were lowered by such competition? A. I never noticed it, no.

2835

Q. Isn't it rather that they increased during such time? A. Yes.

Q. That is, when the rates were lowered more steerage passengers travelled? A. A great many more, but then there is a corresponding falling off later on, when the rates are increased, because all of those who intended to go over made up their minds quickly and go over at the lower rate.

Q. Later on when the rates are raised the number of steerage passengers fall off? A. Yes; really a less revenue to the company.



2836

Q. Now, you testified that during several years the freight rates have increased to some extent; I want to ask you whether during that time the various lines that you were thinking of which had those freight rates were conference lines or were not? A. I am thinking of the Mediterranean lines; they are all conference lines.

2837

Q. That is, at that time, the rates were increased, the conference increased them; isn't that so? A. No, the conference did not increase them; it was on account of the large demand for cargo space that the steamship lines decided that they could not carry all the cargo that was offered any way and they had to get higher prices for it.

Q. But those lines that were carrying that cargo were Conference lines? A. Conference lines, yes.

Q. And so far as you know on all the lines which carried those cargoes the rates were more, were they not, the freight rate was more for all of those vessels of the Conference lines? A. Yes, they were charging more to the Mediterranean.

Q. During that period, during the last five years? A. That I don't know; my recollection goes back only to the beginning of this year.

2838

Q. I thought you had testified to the period of the last five years, that is the reason I was asking you? A. I said it would depend upon the demand and supply. They have been increased right along in the last few years, especially this year.

Q. How did you acquaint yourself with the regulations of the foreign government regulating the rates to forty dollars; did you get the regulations? A. We received a list every month; all the steamship lines receive a list issued by the Italian Royal Commissioner of General Immigration. It is a printed list, an official list.

Q. Issued by the Government? A. Yes.

By Mr. Spooner:

Q. Is it not a fact to your knowledge at the present time thousands of steerage passengers on their way to the United States are turned back at the Russian frontier, no matter and without regard to the line, the steamship line, Hamburg or North German Lloyd or whatever line they may be billed or ticketed over to the United States? A. I have no knowledge. If they are afflicted with any contagious disease they are liable to be sent back from the frontier.

By Mr. Bullowa:

2840

Q. Isn't it true that every Russian subject that has not a proper passport is turned back at the Russian frontier? A. Yes, sir.

Q. By the Russian Government? A. Yes, sir.

Q. And you don't know that these passengers whom you testified were turned back had a proper passport from the Russian Government? A. I do know that they had all the papers necessary to get through. I only referred to those.

Hearing adjourned to Wednesday, July 10th, 1912,  
at 11 o'clock A. M.

2841

2842

UNITED STATES DISTRICT COURT,  
SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,  
Petitioner,  
against

HAMBURG-AMERIKANISCHE PACK-  
ETFAHRT - ACTIEN - GESELL-  
SCHAFT and others,  
Defendants.

2843

Before: Charles E. Pickett, Esq., Examiner.

New York, July 10, 1912.

Hearing resumed pursuant to adjournment.

Appearances:

Goldthwaite H. Dorr, Esq., Henry A. Guiler, Esq.,  
for the petitioner.

Messrs. Burlingham, Montgomery & Beecher, by  
Charles C. Burlingham, Esq., for The Anchor Line,  
Ltd., *et al.*

2844 Messrs. Choate & Larocque, by Nelson Shipman,  
Esq., for Norddeutscher Lloyd, *et al.*

Messrs. Lord, Day & Lord, by Lucius H. Beers,  
Esq., and Allan B. A. Bradley, Esq., for the Cunard  
Line, *et al.*

Ralph J. M. Bullowa, Esq., for the Russian East  
Asiatic Company, *et al.*

Mr. Dorr: I will offer in evidence those let-  
ters in Press Copy Book #13 of A. E. Johnson  
& Company relating to the competition of the  
conference lines with the ships of the Russian

East Asiatic Company, of the Northwest Transport, New York Continental and Russian Volunteer Fleet; relating to the methods proposed to be used, and actually used by the Russian East Asiatic Steamship Company and by the Russian Volunteer Fleet in opposition to meet the competition of the conference lines; relating to the operation of fighting steamships and defending steamships by the conference lines; relating to the reduction of rates, the employment of agents, and to the operation of the Russian East Asiatic Line and conference lines, and to the entries of the Russian East Asiatic Steamship Company into the conference and its relations to that conference after the entry. Do you object to my offering it in the way I have? 2845

Mr. Bullowa: I think it is rather a broad offering. 2846

Mr. Beers: I wish to note a general objection to the introduction of these letters and copies of letters upon the ground they are incompetent and irrelevant and not binding on the other defendants. I understand this objection will be understood without repeating it each time.

Mr. Dorr: Yes, you need not repeat it and it will be understood the letters I am about to offer are subject to that objection. 2847

Mr. Dorr: I offer book #13 in evidence.

Marked Petitioner's Exhibit #244.

I make the same offer as to letterpress copy book #8.

Marked Petitioner's Exhibit #245.

I make the same offer as to letterpress copy book #12.

Marked Petitioner's Exhibit #246.

I make the same offer as to letterpress copy book—the date of the first letter being May

2848

29, 1907, and the last letter being December 24, 1907.

Marked Petitioner's Exhibit #247.

I make the same offer as to letterpress copy book—the first letter the date of which can be ascertained is dated June 3, 1907, and the last one July, 1907.

Marked Petitioner's Exhibit #248.

I make the same offer as to letterpress copy book—the date of the first letter being July 1, 1907, and the last letter August, 1907.

Marked Petitioner's Exhibit #249.

2849

I make the same offer as to letterpress copy book—the date of the first letter being August 7, 1907, and the last letter September 10, 1907.

Marked Petitioner's Exhibit #250.

I make the same offer as to the Russian East Asiatic Company letterpress copy book—the second letter of which is under date of May 14, 1907, and the last letter under date of June 22, 1911.

Marked Petitioner's Exhibit #251.

I make the same offer as to letterpress copy book—the first letter of which is dated 9/10/07 and the last letter 10/1/07.

Marked Petitioner's Exhibit #252.

2850

I make the same offer as to letterpress copy book—the first letter of which is under date of 11/21/07, and the last letter 12/24/07.

Marked Petitioner's Exhibit #253.

I make the same offer as to letterpress copy book—the first letter of which is under date of 10/24/07, to 11/21/07 date of the last letter.

Marked Petitioner's Exhibit #254.

I make the same offer as to letterpress copy book—the first letter of which is under date of December 26, 1907, and the last letter January 20, 1908.

Marked Petitioner Exhibit #255.

2851

I make the same offer as to letter press copy book—#14—the first letter of which is dated June, 1908, and the last letter July 14 1908.

Marked Petitioner's Exhibit #256.

I make the same offer as to letterpress copy book—the first letter of which is dated February 25, 1908, and the last letter March 20, 1908.

Marked Petitioner's Exhibit #257.

I make the same offer as to letterpress copy book—#11—the first letter being under date of April 16, 1908, to May 12, 1908, date of the last letter.

Marked Petitioner's Exhibit #258.

2852

I make the same offer as to letterpress copy book #15—the first letter being under date of July 15, 1908, and the last letter August 5, 1908.

Marked Petitioner's Exhibit #259.

All of the above books produced by Mr. Bullock.

Mr. Beers: The Cunard Line will produce papers on Tuesday, July 16th, 1912, at 11 o'clock A. M.

Mr. Dorr: If the defendants desire an adjournment on the 16th of July to the 25th of August, 1912, at which time the taking of testimony in behalf of the Government will be resumed with an adjournment thereafter to September 9th at Liverpool, at which time if the defendants desire, the witness Ismay may be produced for examination at that time and place instead of in New York. If on the examination of any witness produced by the defendants abroad the question of the obligation of the witness to answer or to produce papers or documents within his control should arise, the Government will insist on the production of that

2853

2854

witness in New York in order that the matter of the question of *law* may be presented to the Court. If the defendants do not desire to have the adjournments suggested, the Government will ask that the hearings be resumed on August 26, or on August 21, whichever the defendants desire and that the witness may be produced on September 3rd or prior thereto if the defendants should prefer it.

2855

Mr. Burlingham: My recollection is that at one of the hearings held the last week or the preceding week, it was formally agreed and entered in the minutes that on or about the 10th of July an adjournment should be taken until September 4th or 5th. As to the production of Mr. Ismay as a witness, my understanding is not the same as that of the District Attorney but I will endeavor to arrange by cable for the taking of the deposition as early in September as possible. I offer in evidence the following letters of the White Star Line.

2856

Liverpool to New York, dated January 18, 1908; New York to Liverpool, dated February 17, 1908; New York to Liverpool, dated February 21, 1908; Liverpool to New York, dated February 12, 1908; Liverpool to New York, dated February 15, 1908; Liverpool to New York, dated February 19, 1908.

Marked Petitioner's Exhibit #260.

Mr. Dorr: The Government offers in evidence letters received by A. E. Johnson & Company from the Russian East Asiatic Steamship Company produced by Mr. Bullowa. I shall ask the special examiner during the recess to arrange for the custody of the exhibits in such way as may afford access to counsel of both sides.

Mr. Bullowa: If the District Attorney insists, I will leave the trunk full of letters and

other documents in the care of the examiner for examination by the District Attorney. 2857

(Mr. Bullowa leaves the trunk full of letters and other documents in the care of the examiner.)

Mr. Guiler: I offer in evidence the following original letters from the Holland American Line, Rotterdam, to the Holland American Line, New York:

Letter dated October 9, 1908.

Marked Petitioner's Exhibit #261.

Letter dated October 16, 1908, with annexed copy of letter of French Line to Holland American Line dated October 15 1908.

Marked Petitioner's Exhibit #262. 2858

Letter dated April 7, 1909.

Marked Petitioner's Exhibit #263.

Letter dated November 6, 1900.

Marked Petitioner's Exhibit #264.

Letter dated August 25, 1899.

Marked Petitioner's Exhibit #265.

Letter dated August 31, 1906.

Marked Petitioner's Exhibit #266.

Letter dated April 8, 1908.

Marked Petitioner's Exhibit #267.

Letter dated May 8, 1908.

Marked Petitioner's Exhibit #268.

Mr. Guiler: I offer also copies of letters from Holland-American Line, New York, to Holland American Line, Rotterdam, as follows: 2859

Letter book copy dated June 26, 1908.

Marked Petitioner's Exhibit #269.

Letter book copy dated September 18, 1908.

Marked Petitioner's Exhibit #270.

Letter book copy dated January 26, 1909.

Marked Petitioner's Exhibit #271.



- 2860 Letter book copy dated February 9, 1909.  
 Marked Petitioner's Exhibit #272.  
 Letter book copy dated November 18, 1909.  
 Marked Petitioner's Exhibit #273.  
 Letter book copy dated March 26, 1909.  
 Marked Petitioner's Exhibit #274.  
 Letter book copy dated April 8, 1909.  
 Marked Petitioner's Exhibit #275.  
 Letter book copy dated July 30, 1909.  
 Marked Petitioner's Exhibit #276.  
 Letter book copy dated October 8, 1909.  
 Marked Petitioner's Exhibit #277.  
 Letter book copy dated November 12, 1909.  
 Marked Petitioner's Exhibit #278.
- 2861 Letter book copy dated January 18, 1910.  
 Marked Petitioner's Exhibit #279.  
 Letter book copy dated November 10, 1905.  
 Marked Petitioner's Exhibit #280.  
 Letter book copy dated December 5, 1905.  
 Marked Petitioner's Exhibit #281.  
 Letter book copy dated December 14, 1905.  
 Marked Petitioner's Exhibit #282.  
 Letter book copy dated December 27, 1905.  
 Marked Petitioner's Exhibit #283.  
 Letter book copy dated February 9, 1906.  
 Marked Petitioner's Exhibit #284.
- 2862 Letter book copy dated February 16, 1906.  
 Marked Petitioner's Exhibit #285.  
 Letter book copy dated May 25, 1906.  
 Marked Petitioner's Exhibit #286.  
 Letter book copy dated September 7, 1906.  
 Marked Petitioner's Exhibit #287.  
 Letter book copy dated October 5, 1906.  
 Marked Petitioner's Exhibit #288.  
 Letter book copy dated November 22, 1906,  
 #234.  
 Marked Petitioner's Exhibit #289.  
 Letter book copy dated November 22, 1906,  
 #236.

- Marked Petitioner's Exhibit #290. 2863  
 Letter book copy dated December 7, 1906.  
 Marked Petitioner's Exhibit #291.  
 Letter book copy dated February 11, 1907.  
 Marked Petitioner's Exhibit #292.  
 Letter book copy dated March 8, 1907.  
 Marked Petitioner's Exhibit #293.  
 Letter book copy dated September 20, 1907.  
 Marked Petitioner's Exhibit #294.  
 Letter book copy dated October 28, 1907.  
 Marked Petitioner's Exhibit #295.  
 Letter book copy dated November 15, 1907.  
 Marked Petitioner's Exhibit #296.  
 Letter book copy dated December 20, 1907. 2864  
 Marked Petitioner's Exhibit #297.  
 Letter book copy dated March 25, 1908.  
 Marked Petitioner's Exhibit #298.  
 Letter book copy dated April 3, 1908.  
 Marked Petitioner's Exhibit #299.  
 Letter book copy dated April 14, 1908.  
 Marked Petitioner's Exhibit #300.  
 Letter book copy dated April 27, 1908.  
 Marked Petitioner's Exhibit #301.  
 Letter book copy dated April 28, 1908.  
 Marked Petitioner's Exhibit #302.  
 Letter book copy dated May 6, 1908.  
 Marked Petitioner's Exhibit #303.  
 Letter book copy dated May 22, 1908. 2865  
 Marked Petitioner's Exhibit #304.  
 Letter book copy dated February 3, 1899.  
 Marked Petitioner's Exhibit #305.  
 Letter book copy dated March 31, 1899,  
 #257.  
 Marked Petitioner's Exhibit #306.  
 Letter book copy dated March 31, 1899,  
 #261.  
 Marked Petitioner's Exhibit #307.  
 Letter book copy dated October 3, 1899.  
 Marked Petitioner's Exhibit #308.

2866

Letter book copy dated November 3, 1899.  
 Marked Petitioner's Exhibit #309.  
 Letter book copy dated November 20, 1900.  
 Marked Petitioner's Exhibit #310.  
 Letter book copy dated November 12, 1901.  
 Marked Petitioner's Exhibit #311.  
 Letter book copy dated December 27, 1901.  
 Marked Petitioner's Exhibit #312.  
 Letter book copy dated July 25, 1902.  
 Marked Petitioner's Exhibit #313.  
 Letter book copy dated January 24, 1905.  
 Marked Petitioner's Exhibit #314.

Hearing adjourned to Tuesday, July 16th, 1912,  
 2867 at 11:00 o'clock A. M.

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UNITED STATES DISTRICT COURT,  
 SOUTHERN DISTRICT OF NEW YORK.

	UNITED STATES OF AMERICA,	}
	Petitioner,	
	against	
2868	HAMBURG-AMERIKANISCHE PACK- ETFAHRT - ACTIEN - GESELL- SCHAFT and others,	
	Defendants.	

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Before: Charles Elliott Pickett, Esq., Examiner.

New York, July 16th, 1912.

Hearing resumed pursuant to adjournment.

## Appearances:

2869

Henry A. Guiler, Esq., John S. Bradley, Esq., for the petitioner.

Messrs. Burlingham, Montgomery & Beecher, by Charles C. Burlingham, Esq., and for the Anchor Line, Ltd., *et al.*

Messrs. Spooner & Cotton by Mr. Savage, for the Allan Line, *et al.*

Messrs. Lord, Day & Lord, by Lucius H. Beers, Esq., and Allan B. A. Bradley, Esq., for the Cunard Line, *et al.*

Ralph J. M. Bullowa, Esq., personally for Russian East Asiatic Company, *et al.*

Mr. Guiler: Mr. Beers, are you ready to produce the papers and letters and so forth in accordance with the subpoena directed to the Cunard Line?

2870

Mr. Beers: I am. I now produce in response to the subpoena of the petitioner and for his inspection the following papers, which I have received from the home office of the Cunard Company in Liverpool.

I produce a typewritten paper dated Liverpool, July 11th, 1893, entitled "Memorandum of rates in operation for the Scandinavian business," and marked in ink with the arbitrary number "A-1."

2871

Marked Petitioner's Exhibit #315 for identification.

I produce a printed document dated July 1st, 1898, and entitled "The North Atlantic Passenger Conference. Revised. Regulations for agents for steerage and second cabin business," and marked in ink with the arbitrary designation "A-2" and having on the margin a note in ink as follows: "The rules, etc., for the 1893

2872

agreement are as the first ten clauses of these rules. Clause 11 was added 1898."

Marked Petitioner's Exhibit #316 for identification.

I also produce a printed document entitled "Liverpool, September 10, 1895," entitled "Agreement between the undersigned representatives of the Hamburg American Packet Company, North German Lloyd" and other lines, including the Cunard Line, and marked in ink by the arbitrary designation "B-1."

Marked Petitioner's Exhibit #317 for identification.

2873

I produce a printed document entitled "Continental business. Agreement between the following British Lines, viz: Allan and Allan State" and other lines, including Cunard, and marked in ink by the arbitrary designation "B-2."

Marked Petitioner's Exhibit #318 for identification.

I produce a printed document dated at the foot Liverpool, September 10, 1898, entitled "Finnish business. Agreement between the following British Lines, namely, Allan and Allan State" and other lines, including the Cunard, and designated in ink by the arbitrary designation "B-3."

2874

Marked Petitioner's Exhibit #319 for identification.

I produce a printed document entitled "Appendix to minute 217, Scandinavian and Finnish steerage passenger business, including Iceland. Agreement between the following British Lines, namely, Allan and Allan State" and other lines, including Cunard and marked in ink by the arbitrary designation "B-4."

Marked Petitioner's Exhibit #320 for identification.

I produce a printed document dated at the foot September 10, 1895, and entitled "Agreement in regard to the Scandinavian (Norway, Sweeden and Denmark) and Finland steerage passenger business to be enforced on and from date hereof." And also marked in ink by the arbirtrary designation "B-4." 2875

Marked Petitioner's Exhibit #321 for identification.

I produce a printed document dated London, 778, June, 1898, entitled "Continental business. Agreement between the undersigned representatives of the Hamburg Amerika Line" and other lines, including the Cunard Line, and marked in ink by the arbitrary designation "C-1." 2876

Marked Petitioner's Exhibit #322 for identification.

I produce a printed document dated at the foot Liverpool, 15th June, 1898, entitled "Continental business. Agreement between the following British Lines, namely, Allan and Allan State and other lines, including the Cunard, for controlling and pooling the share of continental traffic allotted to the British Lines in accordance with the foregoing with the Continental Lines." And marked in ink by the arbitrary designation "C-2." 2877

Marked Petitioner's Exhibit #323 for identification.

I produce a printed document dated at the foot July 1st, 1898, entitled: "British business. (Steerage westbound)." Headed "Agreement between the following British Lines, viz: Allan and Allan and State" and other lines, including Cunard. The third page of the document being entitled: "The North Atlantic Passenger Conference. Revised regulations for agents." And the whole document being marked by the printed designation "C-3."

2878

Marked Petitioner's Exhibit #324 for identification.

I produce a printed document dated at the foot Liverpool, June 15, 1898, headed "Scandinavian and Finnish steerage passenger business (including Iceland)" and entitled "Agreement between the following British lines, namely, Allan and Allan State" and other lines, including Cunard, and marked in ink by the arbitrary designation "C-4."

Marked Petitioner's Exhibit #325 for identification.

2879

I produce a printed document dated at the foot Liverpool, January 14, 1905, headed "British business, third class" and entitled: "Agreement between the following British Lines, namely, Allan and Allan and State" and other lines, including the Cunard. The first page of the paper being entitled "The North Atlantic Passenger Conference. Revised regulations for agents" and the whole paper being marked in ink by the arbitrary designation "D-1."

Marked Petitioner's Exhibit #326 for identification.

2880

I produce a printed document dated Liverpool, January 21, 1905, headed "Amended. Scandinavian third-class business" and entitled "To agents," the paper being marked in ink by the arbitrary designation "D-2."

Marked Petitioner's Exhibit #327 for identification.

I produce a printed document dated Liverpool, January 21, 1905, headed "Amended. Finnish third-class business," and apparently addressed to agents, the paper being marked in ink by the arbitrary designation "D-3."

Marked Petitioner's Exhibit #328 for identification.

I produce a printed pamphlet entitled on the cover "Agreement AA" purporting to be a copy of agreement between the Allan Line Steamship Company, Limited, and other lines, including the Cunard, and dated February 5th, 1908, and including appendices numbers 1, 2, 3, and 4, the whole pamphlet being marked in ink by the arbitrary designation "E-1."

2881

Marked Petitioner's Exhibit #329 for identification.

I produce a printed document in pamphlet form headed "Agreement Z" dated the 5th of February, 1908, purporting to be a copy of an agreement between the Hamburg American and other lines, including Cunard; annexed being appendices 1, 2 and 3, the whole pamphlet being marked in ink by the arbitrary designation "E-2."

2882

Marked Petitioner's Exhibit #330 for identification.

I produce a printed document in pamphlet form dated "Jena, Decbr. 10th, 1908, March 31, 1908" entitled "Agreement BB" between the following lines: The Allan Line Steamship Company, Limited and other lines including Cunard, the whole pamphlet being marked in ink by the arbitrary designation "E-3."

Marked Petitioner's Exhibit #331 for identification.

2883

I produce a printed document dated at the foot Liverpool, 23rd May, 1908 (Revised up to August 15th, 1910) entitled "Agreement on British Westbound third-class business" and entitled "It has been this day agreed by the following British lines, namely, Allan Line" and other lines, including Cunard, consisting of twelve pages, page nine being entitled "The North Atlantic Passenger Conference. Revised regulations for agents," and the whole



2884

pamphlet being marked in ink by the arbitrary designation "F-1."

Marked Petitioner's Exhibit #332 for identification.

I produce a printed document dated at the foot Liverpool, 20th February, 1908, headed "Scandinavian and Finnish third-class passenger business (including Iceland)" and entitled "Agreement between the following lines, namely Allan Line" and other lines, including Cunard, and marked in ink by the arbitrary designation "F-2."

Marked Petitioner's Exhibit #333 for identification.

2885

Mr. Guiler: I understand from Mr. Savage, representing Senator Spooner, that Mr. Dorr agreed with Senator Spooner to give the firm of Spooner & Cotton further reasonable time to produce such letters and translations of letters of the Hamburg American Line as agreed upon.

Mr. Burlingham states that he has arranged for the production of Mr. Ismay as a witness at Liverpool on September 2nd next.

Mr. Guiler: I would like to have placed on the record that the hearing of this case is adjourned until September 2nd at Liverpool for the purpose mentioned by Mr. Burlingham.

2886

Mr. Burlingham: Of course, as stated before, we may wish to examine in England one or more witnesses with regard to foreign laws.

Mr. Beers: I should like to have it appear on the record that the examination to be had in Liverpool is only for the purpose of taking the testimony or deposition of Mr. Ismay, and of such experts as to foreign law as Mr. Burlingham may desire to call.

Mr. Guiler: Also that the examination of Mr. Ismay will undoubtedly entail a calling

for various papers and documents at the same time as the examination is going on. 2887

Mr. Beers: I would like to enquire on the record as to the date of the next hearing which is to be had in New York after the testimony of Mr. Ismay has been taken in Liverpool.

Mr. Guiler: I understand that that date will be fixed by the Examiner on or about the 15th of September or as soon after the return of the parties from Liverpool as is convenient, and on notice to the other counsel.

Mr. Burlingham: I produce a voluminous batch of letters from Europe to the agents here and the carbon replies, together with copies of minutes of meetings of foreign conference. 2888

Mr. Guiler: I offer in evidence letter dated March 7th, 1908, from Ismay, Imrie & Company to the White Star Line at New York.

Mr. Beers: I renew my objection, although I understand it applies to all these letters without repetition.

Mr. Guiler. Yes, I understood so, Mr. Beers.

Marked Petitioner's Exhibit #334.

Also letter dated Liverpool, March 28th, 1908, from Ismay, Imrie & Company to the White Star Line at New York.

Marked Petitioner's Exhibit #335. 2889

Also letter dated Liverpool, March 14th, 1908, from Ismay, Imrie & Company to the White Star Line at New York.

Marker Petitioner's Exhibit #336.

Also copy of letter dated March 24th, 1908, from the White Star Line to Ismay, Imrie & Company at Liverpool.

Marked Petitioner's Exhibit #337.

Also copy of letter dated Liverpool, March 24th, 1908, from Ismay, Imrie & Company to Messrs. Lee & Franklin of New York.

963

2890

Marked Petitioner's Exhibit #338.

Also letter dated Liverpool, March 26th, 1908, Ismay, Imrie & Company to White Star Line, Broadway, New York.

Marked Petitioner's Exhibit #339.

Also letter dated Liverpool, March 28th, 1908, Ismay, Imrie & Company to White Star Line, Broadway, New York.

Marked Petitioner's Exhibit #340.

Also carbon copy of letter dated April 7th, 1908, White Star Line of New York to Ismay, Imrie & Company, Liverpool.

Marked Petitioner's Exhibit #341.

2891

Also letter dated Liverpool, April 4th, 1908, Ismay, Imrie & Company to White Star Line.

Marked Petitioner's Exhibit #342.

Also letter dated April 8th, 1908, Liverpool, Ismay, Imrie & Company to White Star Line.

Marked Petitioner's Exhibit #343.

Also letter dated Liverpool, April 8th, 1908, Ismay, Imrie & Company to White Star Line.

Marked Petitioner's Exhibit #344.

Also carbon copy of letter dated April 3rd, 1908, White Star Line, New York, to Ismay, Imrie & Company, Liverpool.

Marked Petitioner's Exhibit #345.

2892

Also letter dated Liverpool, April 15th, 1908, from Ismay, Imrie & Company to the White Star Line, New York, and also copy of cablegram attached from secretary Peters at Jena to Ismay, Imrie & Company, Liverpool, dated March 23rd, 1908.

Marked Petitioner's Exhibit #346.

Also letter of White Star Line, Liverpool, dated April 25th, 1908, to White Star Line, 9 Broadway, New York.

Marked Petitioner's Exhibit #347.

Also carbon copy of letter of White Star Line, New York, to Ismay, Imrie & Company, Liverpool, dated April 24th, 1908.

Marked Petitioner's Exhibit #348.

2893

Also letter dated Liverpool, April 18th, 1908, of Ismay, Imrie & Company to White Star Line, New York.

Marked Petitioner's Exhibit #349.

Also carbon copy of letter dated April 15th, 1908, to the secretary of the North Atlantic Passenger Conference, James Street, Liverpool.

Marked Petitioner's Exhibit #350.

Also carbon copy of letter of White Star Line to Ismay, Imrie & Company, Liverpool, dated April 28th, 1908.

Marked Petitioner's Exhibit #351.

Also letter dated May 2nd, 1908, from Ismay, Imrie & Company to White Star Line.

2894

Marked Petitioner's Exhibit #352.

Also carbon copy of letter dated March 20th, 1908, Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #353.

Also carbon copy of letter dated March 24th, 1908, Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #354.

Also carbon copy of letter dated March 27th, 1908, Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #355.

Also carbon copy of letter dated April 7th, 1908, Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #356.

2895

Also letter dated May 1, 1908, Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #357.

Also letter from Red Star Line to Red Star Line dated March 26th, 1908.

Marked Petitioner's Exhibit #358.

Also carbon copy of letter dated May 29th, 1908 from Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #359.

Also carbon copy of letter dated May 28th, 1908, from Red Star Line to Red Star Line.

2896

Marked Petitioner's Exhibit #360.

Also letter dated May 26th, 1908, from Red Star Line to Red Star Line with annexed circular letter dated May 25th, 1908.

Marked Petitioner's Exhibit #361.

Also carbon copy of letter dated June 30th, 1908, from Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #362.

Also letter dated June 19th, 1908 from Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #363.

Also carbon copy of letter dated June 19th, 1908, from Red Star Line to Red Star Line.

2897

Marked Petitioner's Exhibit #364.

Also carbon copy of letter dated June 16th, 1908, from Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #365.

Also carbon copy of letter dated June 9th, 1908, from Red Star Line to Red Star Line.

Marked Petitioner's Exhibit #366.

Also letter dated June 9th, 1908, from Red Star Line, Antwerp to Red Star Line, New York.

Marked Petitioner's Exhibit #367.

Also carbon copy of letter dated June 3rd, 1908, from Red Star Line to Red Star Line, Antwerp.

2898

Marked Petitioner's Exhibit #368.

Also carbon copy of letter dated July 14th, 1908, from Red Star Line to Red Star Line, Antwerp.

Marked Petitioner's Exhibit #369.

Also carbon copy of letter dated July 10th, 1908, from Red Star Line to Red Star Line, Antwerp.

Marked Petitioner's Exhibit #370.

Also carbon copy of letter dated July 7th, 1908, from Red Star Line to Red Star Line, Antwerp.

Marked Petitioner's Exhibit #371.

2899

Also carbon copy of letter dated July 3rd, 1908, from Red Star Line to Red Star Line, Antwerp.

Marked Petitioner's Exhibit #372.

Also carbon copy of letter from the Red Star Line to the Red Star Line dated August 18th, 1908 with letter to Mr. Farley and original letter from the Red Star Line to the Red Star Line at Antwerp dated August 3rd, 1908, annexed.

Marked Petitioner's Exhibit #373.

Also carbon copy of letter dated August 18th, 1908, from Red Star Line to the Red Star Line, Antwerp.

2900

Marked Petitioner's Exhibit #374.

Also carbon copy of letter dated August 7th, 1908, from the Red Star Line to the Red Star Line, Antwerp.

Marked Petitioner's Exhibit #375.

Also carbon copy of letter dated August 4th, 1908, from the Red Star Line to the Red Star Line, Antwerp.

Marked Petitioner's Exhibit #376.

Also carbon copy of letter dated May 12th, 1908, from the Red Star Line to the Red Star Line, Antwerp.

Marked Petitioner's Exhibit #377.

2901

Also carbon copy of letter dated June 26th, 1908, from the Red Star Line to the Red Star Line, Antwerp.

Marked Petitioner's Exhibit #378.

Also carbon copy of letter dated June 23rd, 1908, from Red Star Line to Red Star Line, Antwerp.

Marked Petitioner's Exhibit #379.

Also carbon copy of letter dated June 19th, 1908, from the Red Star Line to the Red Star Line, Antwerp.

2902

Marked Petitioner's Exhibit #380.

Also carbon copy of letter dated August 14th, 1908 from the Red Star Line to the Red Star Line, Antwerp.

Marked Petitioner's Exhibit #381.

I offer in evidence the following list and copy thereof produced from the files of A. E. Johnson & Company, 27 Broadway, New York, being correspondence between A. E. Johnson & Company and the Russian American Line at Libau, Russia and Copenhagen and certain other lines.

2903

Carbon copy of letter from the A. E. Johnson & Company to the Russian American Line dated March 17th, 1909.

Marked Petitioner's Exhibit #382.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated March 13th, 1909.

Marked Petitioner's Exhibit #383.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated March 11th, 1909.

Marked Petitioner's Exhibit #384.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated March 12th, 1909.

2904

Marked Petitioner's Exhibit #385.

Also letter dated February 26th, 1909 from the Russian American Line to A. E. Johnson & Company.

Marked Petitioner's Exhibit #386.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 22nd, 1909.

Marked Petitioner's Exhibit #387.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 20th, 1909.

Marked Petitioner's Exhibit #389.

2905

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 19, 1909.

Marked Petitioner's Exhibit #390.

Also letter from the Russian American Line to A. E. Johnson & Company dated February 9th, 1909.

Marked Petitioner's Exhibit #391.

Also letter from the Russian American Line to A. E. Johnson & Company dated February 5th, 1909.

Marked Petitioner's Exhibit #392.

Also letter from the Russian American Line to A. E. Johnson & Company dated February 2nd, 1909.

2906

Marked Petitioner's Exhibit #393.

Also letter from the Russian American Line to A. E. Johnson & Company, dated January 30th, 1909.

Marked Petitioner's Exhibit #394.

Also letter from the Russian American Line to A. E. Johnson & Company dated December 31st, 1908.

Marked Petitioner's Exhibit #395.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February, 1909.

2907

Marked Petitioner's Exhibit #396.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 11th, 1909.

Marked Petitioner's Exhibit #397.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 11th, 1909.

Marked Petitioner's Exhibit #398.



2908

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 11th, 1909.

Marked Petitioner's Exhibit #399.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 10th, 1909.

Marked Petitioner's Exhibit #400.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 10th, 1909.

Marked Petitioner's Exhibit #401.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 10th, 1909.

2909

Marked Petitioner's Exhibit #402.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 10th, 1909.

Marked Petitioner's Exhibit #403.

Also letter from the Russian American Line to A. E. Johnson & Company dated January 29th, 1909.

Marked Petitioner's Exhibit #404.

Also letter from the Russian American Line to A. E. Johnson & Company dated January 29th, 1909, with two papers annexed.

2910

Marked Petitioner's Exhibit #405.

Also letter from the Russian American Line to A. E. Johnson & Company dated January 26th, 1909.

Marked Petitioner's Exhibit #406.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 9th, 1909.

Marked Petitioner's Exhibit #407.

Also letter from the Russian American Line to A. E. Johnson & Company dated Libau, January 22nd, 1909.

Marked Petitioner's Exhibit #408.

2911

Also letter from the Russian American Line to A. E. Johnson & Company dated Libau, January 21st, 1909.

Marked Petitioner's Exhibit #409.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 2nd, 1909.

Marked Petitioner's Exhibit #410.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated January 30th, 1909.

Marked Petitioner's Exhibit #411.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated January 28th, 1909.

2912

Marked Petitioner's Exhibit #412.

Also letter from Russian American Line to A. E. Johnson & Company dated January 18th, 1909.

Marked Petitioner's Exhibit #413.

Also letter from Russian American Line to A. E. Johnson & Company dated January 11th, 1909.

Marked Petitioner's Exhibit #414.

Also letter marked S. S. "Estonia" dated New York, January 25th, 1909, giving the capacity of the Estonia for passengers.

2913

Marked Petitioner's Exhibit #415.

Also letter from the Russian American Line to A. E. Johnson & Company dated Libau, July 28th, 1909.

Marked Petitioner's Exhibit #416.

Also a copy of a cablegram dated Copenhagen, September 12th, 1908, to Johnson at New York.

Marked Petitioner's Exhibit #417.

Also letter from the East Asiatic Company Limited to A. E. Johnson & Company dated September 12th, 1908.

2914

Marked Petitioner's Exhibit #418.

Also copy of cablegram undated from Johnson to Copenhagen.

Marked Petitioner's Exhibit #419.

Also cablegram dated September 4th, 1908 from Russian East Asiatic Company to Johnson.

Marked Petitioner's Exhibit #420.

Also copy of cablegram dated Copenhagen, September 29th, 1908, to Johnson from East Asiatic Company, Limited.

Marked Petitioner's Exhibit #421.

2915

Also copy of letter dated August 29th, 1908 to A. E. Johnson & Company from the Russian East Asiatic Company, Limited.

Marked Petitioner's Exhibit #422.

Also letter dated Copenhagen, September 4th, 1908, from the East Asiatic Company to A. E. Johnson & Company.

Marked Petitioner's Exhibit #423.

Also copy of cablegram dated September 5th, 1908 from the East Asiatic Company, Limited to Johnson.

Marked Petitioner's Exhibit #424.

Also copy of cablegram dated September 2nd, 1908, from the East Asiatic Company, Limited to Johnson.

2916

Marked Petitioner's Exhibit #425.

Also letter dated September 1, 1910, from the Russian American Line to A. E. Johnson & Company.

Marked Petitioner's Exhibit #426.

Also letter dated June 16th, 1909 from the Russian American Line to A. E. Johnson & Company.

Marked Petitioner's Exhibit #427.

Also letter dated Libau, June 16th, 1909, from Russian American Line to A. E. Johnson & Company.

Marked Petitioner's Exhibit #428.

Also letter dated Copenhagen, September 15th, 1908, from the East Asiatic Company, Limited to A. E. Johnson & Company.

2917

Marked Petitioner's Exhibit #429.

Also copy of cablegram, without date, to the Russian East Asiatic Company from Johnson.

Marked Petitioner's Exhibit #430.

Also copy of cablegram, without date, to the Russian East Asiatic Company from Johnson.

Marked Petitioner's Exhibit #431.

Also copy of cablegram dated Copenhagen, September 1st, 1908, to Johnson, New York, from the East Asiatic Company, Limited.

Marked Petitioner's Exhibit #432.

2918

Also letter dated September 3rd, 1908, from the East Asiatic Company, Limited to A. E. Johnson & Company with two copies of letters annexed.

Marked Petitioner's Exhibit #433.

Also letter dated Libau, May 31st, 1912, from the Russian American Line to A. E. Johnson & Company, New York, with copy of cablegram annexed.

Marked Petitioner's Exhibit #434.

Also letter dated Copenhagen, September 22nd, 1908, from the East Asiatic Company, Limited, to A. E. Johnson & Company.

2919

Marked Petitioner's Exhibit #435.

Also letter dated Copenhagen, September 30th, 1908, from the East Asiatic Company, Limited, to A. E. Johnson & Company.

Marked Petitioner's Exhibit #436.

Also cablegram dated September 20th, 1908, from Libau addressed to A. E. Johnson & Company, New York.

Marked Petitioner's Exhibit #437.

2920

Also cablegram, without date from A. E. Johnson & Company at New York to the Russian East Asiatic Steamship Company.

Marked Petitioner's Exhibit #438.

Also cablegram dated August 25th, 1908.

Marked Petitioner's Exhibit #439.

Also cablegram without date from A. E. Johnson & Company to the Russian East Asiatic Steamship Company.

Marked Petitioner's Exhibit #440.

Also original letter from the Russian America Line to A. E. Johnson & Company dated Libau, August 13th, 1909.

2921

Marked Petitioner's Exhibit #441.

Also letter from the Russian American Line to A. E. Johnson & Company dated Libau, November 10th, 1909.

Marked Petitioner's Exhibit #442.

Also letter from the Russian American Line to A. E. Johnson & Company dated Libau, August 9th, 1909.

Marked Petitioner's Exhibit #443.

Also letter from the Russian American Line to A. E. Johnson & Company dated Libau, September 3rd, 1909, with copy of letter dated September 3rd, 1909 annexed.

Marked Petitioner's Exhibit #444.

2922

Also carbon copy of letter dated October 11th, 1909 to the Russian American Line from Libau, Russia.

Marked Petitioner's Exhibit #445.

Also copy of cablegram dated August 18th, 1909.

Marked Petitioner's Exhibit #446.

Also original letter from the Russian American Line to A. E. Johnson & Company dated March 28th, 1909.

Marked Petitioner's Exhibit No. 447.

Also carbon copy of letter dated June 11th, 1909, from A. E. Johnson & Company to the East Asiatic Company at Copenhagen. 2923

Marked Petitioner's Exhibit #448.

Also copy of cablegram from A. E. Johnson & Company to Orient, Copenhagen without date.

Marked Petitioner's Exhibit #449.

Also copy of telegram dated June, 1908, signed Johnson.

Marked Petitioner's Exhibit #450.

Also carbon copy of letter to the East Asiatic Steamship Company, Copenhagen, Denmark from A. E. Johnson & Company dated June 13th, 1908. 2924

Marked Petitioner's Exhibit #451.

Also copy of cablegram from A. E. Johnson & Company to Orient, Copenhagen.

Marked Petitioner's Exhibit #452.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 18th, 1908.

Marked Petitioner's Exhibit #453.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 9th, 1908.

Marked Petitioner's Exhibit #454.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 12th, 1908. 2925

Marked Petitioner's Exhibit #455.

Also letter from the Russian American Line to A. E. Johnson & Company dated August 18th, 1909.

Marked Petitioner's Exhibit #456.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated November 30th, 1910.

2926

Marked Petitioner's Exhibit #457.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated November 15th, 1910.

Marked Petitioner's Exhibit #458.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated November 9th, 1910.

Marked Petitioner's Exhibit #459.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated November 4th, 1910.

Marked Petitioner's Exhibit #460.

2927

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated November 1st, 1910.

Marked Petitioner's Exhibit #461.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated March 18th, 1909.

Marked Petitioner's Exhibit #462.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated March 19th, 1909.

Marked Petitioner's Exhibit #463.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated March 22nd, 1909.

2928

Marked Petitioner's Exhibit #464.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated March 26th, 1909.

Marked Petitioner's Exhibit #465.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated March 25th, 1909.

Marked Petitioner's Exhibit #466.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated March 23rd, 1909.

Marked Petitioner's Exhibit #467.

2929

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line at Libau dated March 23rd, 1909.

Marked Petitioner's Exhibit #468.

Also original letter from the Russian American Line to A. E. Johnson & Company dated March 9th, 1909.

Marked Petitioner's Exhibit #469.

Also original letter from the Russian American Line to A. E. Johnson & Company dated March 27th, 1909.

Marked Petitioner's Exhibit #470.

Also original letter from the Russian American Line to A. E. Johnson & Company dated March 29th, 1909.

2930

Marked Petitioner's Exhibit #471.

Also statement dated April 1st, 1909, containing measurements of the Lithuania.

Marked Petitioner's Exhibit #472.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 1st, 1909.

Marked Petitioner's Exhibit #473.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 12th, 1909.

Marked Petitioner's Exhibit #474.

2931

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 14th, 1909.

Marked Petitioner's Exhibit #475.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 16th, 1909.

Marked Petitioner's Exhibit #476.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 16th, 1909.



2932

Marked Petitioner's Exhibit #477.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 20th, 1909.

Marked Petitioner's Exhibit #478.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 23rd, 1909.

Marked Petitioner's Exhibit #479.

Also original statement of emigrant railway fares dated March 21st, 1909.

Marked Petitioner's Exhibit #480.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 27th, 1909.

2933

Marked Petitioner's Exhibit #481.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated April 29th, 1909.

Marked Petitioner's Exhibit #482.

Also carbon copy of letter from A. E. Johnson & Company to Ruys & Company dated December 12, 1908.

Marked Petitioner's Exhibit #483.

Also original letter from Ruys & Company to A. E. Johnson & Company dated December 12th, 1908.

2934

Marked Petitioner's Exhibit #484.

Also original letter from Ruys & Company to A. E. Johnson & Company dated January 14th, 1909.

Marked Petitioner's Exhibit #485.

Also carbon copy of letter from A. E. Johnson & Company to Ruys & Company dated February 18th, 1909.

Marked Petitioner's Exhibit #486.

Also carbon copy of letter from A. E. Johnson & Company to Ruys & Company dated April 16th, 1909.

Marked Petitioner's Exhibit #487.

2935

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated November 4th, 1908.

Marked Petitioner's Exhibit #488.

Also original letter from the Russian East Asiatic Steamship Company to A. E. Johnson & Company dated October 26th, 1908.

Marked Petitioner's Exhibit #489.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated November 9th, 1908.

Marked Petitioner's Exhibit #490.

Also original letter from the Russian East Asiatic Steamship Company to A. E. Johnson & Company dated October 30th, 1908.

2936

Marked Petitioner's Exhibit #491.

Also original letter from the Russian East Asiatic Steamship Company to A. E. Johnson & Company dated November 3rd, 1908.

Marked Petitioner's Exhibit #492.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated November 21st, 1908.

Marked Petitioner's Exhibit #493.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated September 18th (?), 1909.

2937

Marked Petitioner's Exhibit #494.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated September 14th, 1909.

Marked Petitioner's Exhibit #495.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated September 8th, 1909.

Marked Petitioner's Exhibit #496.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated September 8th, 1909.

2938

Marked Petitioner's Exhibit #497.

Also original letter from the Russian East Asiatic Steamship Company to A. E. Johnson & Company dated September 1st, 1909.

Marked Petitioner's Exhibit #498.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated September 14th, 1909.

Marked Petitioner's Exhibit #499.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated October 4th, 1909.

Marked Petitioner's Exhibit #500.

2939

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated October 6th, 1909.

Marked Petitioner's Exhibit #501.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated October 6th, 1909.

Marked Petitioner's Exhibit #502.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated October 8th, 1909.

Marked Petitioner's Exhibit #503.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated October 11th, 1909.

2940

Marked Petitioner's Exhibit #504.

Also cablegram marked "Small committee," without date.

Marked Petitioner's Exhibit #505.

Also cablegram to Small Committee dated December 27th.

Marked Petitioner's Exhibit #506.

Also original letter from the Russian American Line to A. E. Johnson & Company dated December 2nd, 1909.

Marked Petitioner's Exhibit #507.

2941

Also original letter from the Russian American Line to A. E. Johnson & Company dated December 6th, 1909.

Marked Petitioner's Exhibit #508.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated January 6th, 1910.

Marked Petitioner's Exhibit #509.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated January 31st, 1910.

Marked Petitioner's Exhibit #510.

Also original letter from the Russian American Line to A. E. Johnson & Company dated December 28th, 1909.

2942

Marked Petitioner's Exhibit #511.

Also cablegram from A. E. Johnson & Company to Orient Copenhagen dated January 7th.

Marked Petitioner's Exhibit #512.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated February 11th, 1910.

Marked Petitioner's Exhibit #513.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated January 13th, 1910.

Marked Petitioner's Exhibit #514.

2943

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated January 21st, 1910.

Marked Petitioner's Exhibit #515.

Also cablegram *re* Estonia fighting steamer dated November 9th.

Marked Petitioner's Exhibit #516.

Carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company, Copenhagen, Denmark, dated January 7th, 1910.

2944

Marked Petitioner's Exhibit #517.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company, Copenhagen, Denmark, dated January 21st, 1910.

Marked Petitioner's Exhibit #518.

Also original letter from the Russian East Asiatic Steamship Company to A. E. Johnson & Company dated January 8th, 1910.

Marked Petitioner's Exhibit #519.

Also cablegram to the Russian American Line at Libau dated November 22nd.

Marked Petitioner's Exhibit #520.

2945

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 17th, 1909.

Marked Petitioner's Exhibit #521.

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 14th, 1909.

Marked Petitioner's Exhibit #522.

Also letter from the Russian American Line to A. E. Johnson & Company dated September 2nd, 1909.

Marked Petitioner's Exhibit #523.

Also carbon copy from A. E. Johnson & Company to the Russian American Line dated October 29th, 1909.

2946

Marked Petitioner's Exhibit #524.

Also carbon copy from A. E. Johnson & Company to the Russian American Line dated November 19th, 1909.

Marked Petitioner's Exhibit #525.

Original letter from the Russian American Line to A. E. Johnson & Company dated November 23rd, 1909.

Marked Petitioner's Exhibit #526.

Original letter from the Russian American Line to A. E. Johnson & Company dated December 3rd, 1909.

Marked Petitioner's Exhibit #527.

2947

Also original letter with pencil notation from the Russian American Line to A. E. Johnson & Company dated February 5th, 1909.

Marked Petitioner's Exhibit #528.

Also original letter from the Russian American Line to A. E. Johnson & Company dated May 10th, 1908.

Marked Petitioner's Exhibit #529.

Also original letter from the Russian American Line to A. E. Johnson & Company dated May 12th, 1909.

Marked Petitioner's Exhibit #530.

Also original letter from the Russian American Line to A. E. Johnson & Company dated May 15th, 1909.

2948

Marked Petitioner's Exhibit #531.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 13th, 1909.

Marked Petitioner's Exhibit #532.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 14th, 1909.

Marked Petitioner's Exhibit #533.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 14th, 1909.

2949

Marked Petitioner's Exhibit #534.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 20th, 1909.

Marked Petitioner's Exhibit #535.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 21st, 1909.

Marked Petitioner's Exhibit #536.

Also carbon copy of letter from E. A. Johnson & Company to the Russian American Line dated May 21st, 1909.

2950

Marked Petitioner's Exhibit #537.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 21st, 1909.

Marked Petitioner's Exhibit #538.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 21st, 1909.

Marked Petitioner's Exhibit #539.

Also carbon copy of letter from A. E. Johnson & Company, to the Russian American Line dated May 21st, 1909.

Marked Petitioner's Exhibit #540.

2951

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 26th, 1909.

Marked Petitioner's Exhibit #541.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 26th, 1909.

Marked Petitioner's Exhibit #542.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 26th, 1909.

Marked Petitioner's Exhibit #543.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated May 27th, 1909.

2952

Marked Petitioner's Exhibit #544.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 2nd, 1909.

Marked Petitioner's Exhibit #545.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 4th, 1909.

Marked Petitioner's Exhibit #546.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 4th, 1909.

Marked Petitioner's Exhibit #547.

2953

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 8th, 1909.

Marked Petitioner's Exhibit #548.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 8th, 1909.

Marked Petitioner's Exhibit #549.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 8th, 1909.

Marked Petitioner's Exhibit #550.

2954

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 8th, 1909.

Marked Petitioner's Exhibit #551.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 11th, 1909.

Marked Petitioner's Exhibit #552.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 12th, 1909.

Marked Petitioner's Exhibit #553.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 15th, 1909.

2955

Marked Petitioner's Exhibit #554.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 18th, 1909.

Marked Petitioner's Exhibit #555.

Also copy of telegram to Russian American Line at Libau dated June 8th.

Marked Petitioner's Exhibit #556.

Also an original letter from the East Asiatic Company to A. E. Johnson & Company dated April 15th, 1908.



2956

Marked Petitioner's Exhibit #557.

Also an original letter from the East Asiatic Company to A. E. Johnson & Company dated April 22nd, 1908.

Marked Petitioner's Exhibit #558.

Also an original letter from the East Asiatic Company to A. E. Johnson & Company dated May 4th, 1908.

Marked Petitioner's Exhibit #560.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated May 30th, 1908.

Marked Petitioner's Exhibit #561.

2957

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated May 27th, 1908.

Marked Petitioner's Exhibit #562.

Also carbon copy of letter of May 29th, 1908 from A. E. Johnson & Company to the East Asiatic Steamship Company.

Marked Petitioner's Exhibit #563.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 2nd, 1908.

Marked Petitioner's Exhibit #564.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 8th, 1908.

2958

Marked Petitioner's Exhibit #565.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 9th, 1908.

Marked Petitioner's Exhibit #566.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 10th, 1908.

Marked Petitioner's Exhibit #567.

Also original letter from A. E. Johnson & Company to the Russian East Asiatic Steamship Company without date.

Marked Petitioner's Exhibit #568.

2959

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 15th, 1908.

Marked Petitioner's Exhibit #569.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 25th, 1908.

Marked Petitioner's Exhibit #570.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 27th, 1908.

Marked Petitioner's Exhibit #571.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 1st, 1908.

2960

Marked Petitioner's Exhibit #572.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 7th, 1908.

Marked Petitioner's Exhibit #573.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 6th, 1908.

Marked Petitioner's Exhibit #574.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 9th, 1908.

2961

Marked Petitioner's Exhibit #575.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 8th, 1908.

Marked Petitioner's Exhibit #576.

Also copy of a letter to A. E. Johnson & Company, 27 Broadway, from Joseph Lang, without date.

Marked Petitioner's Exhibit #577.

Also copy of cablegram from A. E. Johnson & Company to Orient, Copenhagen.

2962

Marked Petitioner's Exhibit #578.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated June 1st, 1908.

Marked Petitioner's Exhibit #579.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 11th, 1908.

Marked Petitioner's Exhibit #580.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 20th, 1908.

Marked Petitioner's Exhibit #581.

2963

Also cablegram with pencil notation in regard to pool lines, the Russian East Asiatic Steamship Company to A. E. Johnson & Company, New York, dated July 20th, 1908.

Marked Petitioner's Exhibit #582.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 18th, 1908.

Marked Petitioner's Exhibit #583.

Also copy of cablegram from A. E. Johnson & Company to Orient, Copenhagen without date.

Marked Petitioner's Exhibit #584.

2964

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company, dated July 23rd, 1908.

Marked Petitioner's Exhibit #585.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 23rd, 1908.

Marked Petitioner's Exhibit #586.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated July 30th, 1908.

Marked Petitioner's Exhibit #587.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company, dated February 21st, 1908. **2965**

Marked Petitioner's Exhibit #588.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company, dated February 24th, 1908.

Marked Petitioner's Exhibit #589.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company, dated March 17th, 1908.

Marked Petitioner's Exhibit #590.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated December 2nd, 1909. **2966**

Marked Petitioner's Exhibit #591.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 23rd, 1909.

Marked Petitioner's Exhibit #592.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 23rd, 1909.

Marked Petitioner's Exhibit #593.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 26th, 1909.

Marked Petitioner's Exhibit #594. **2967**

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 21st, 1909.

Marked Petitioner's Exhibit #595.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 21st, 1909.

Marked Petitioner's Exhibit #596.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 26th, 1909.

2968

Marked Petitioner's Exhibit #597.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 27th, 1909.

Marked Petitioner's Exhibit #598.

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 11th, 1909.

Marked Petitioner's Exhibit #599.

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 11th, 1909.

Marked Petitioner's Exhibit #600.

2969

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 21st, 1909.

Marked Petitioner's Exhibit #601.

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 9th, 1909.

Marked Petitioner's Exhibit #602.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated December 27th, 1910.

Marked Petitioner's Exhibit #603

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated December 14th, 1909.

2970

Marked Petitioner's Exhibit #604.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated December 17th, 1909.

Marked Petitioner's Exhibit #605.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 26th, 1909.

Marked Petitioner's Exhibit #606.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 28th, 1909. **2971**

Marked Petitioner's Exhibit #607.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated June 30th, 1909.

Marked Petitioner's Exhibit #608.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 2nd, 1909.

Marked Petitioner's Exhibit #609.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 9th, 1909. **2972**

Marked Petitioner's Exhibit #610.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 12th, 1909.

Marked Petitioner's Exhibit #611.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 13th, 1909.

Marked Petitioner's Exhibit #612.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated July 27th, 1909.

Marked Petitioner's Exhibit #613. **2973**

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 10th, 1909.

Marker Petitioner's Exhibit #614.

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 8th, 1909.

Marked Petitioner's Exhibit #615.

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 8th, 1909.

2974

Marked Petitioner's Exhibit #616.

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 15th, 1909.

Marked Petitioner's Exhibit #617.

Also original letter from the Russian American Line to A. E. Johnson & Company dated June 28th, 1909.

Marked Petitioner's Exhibit #618.

Also original letter from the Russian American Line to A. E. Johnson & Company dated July 5th, 1909.

Marked Petitioner's Exhibit #619.

2975

Also original letter from the Russian American Line to A. E. Johnson & Company dated July 10th, 1909.

Marked Petitioner's Exhibit #620.

Also cablegram to Maxolaf, New York, dated June 15th, 1909.

Marked Petitioner's Exhibit #621.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated June 21st, 1907.

Marked Petitioner's Exhibit #622.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated July 9th, 1907.

2976

Marked Petitioner's Exhibit #623.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated July 22nd, 1907.

Marked Petitioner's Exhibit #624.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated August 20th, 1907.

Marked Petitioner's Exhibit #625.

Also cablegrams to Maxolaf, New York, dated August 17th, 1907.

Marked Petitioner's Exhibit #626.

Also cablegram to Maxolaf, New York, dated August 26th, 1907. **2977**

Marked Petitioner's Exhibit #627.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated September 5th, 1907.

Marked Petitioner's Exhibit #628.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated October 5th, 1907.

Marked Petitioner's Exhibit #629.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated October 25th, 1907.

Marked Petitioner's Exhibit #630. **2978**

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated December 13th, 1907.

Marked Petitioner's Exhibit #631.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated December 17th, 1907.

Marked Petitioner's Exhibit #632.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated December 24th, 1907.

Marked Petitioner's Exhibit #633.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated January 14th, 1908. **2979**

Marked Petitioner's Exhibit #634.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated January 20th, 1908.

Marked Petitioner's Exhibit #635.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated January 21st, 1908.

Marked Petitioner's Exhibit #636.



2980

Also copy of letter signed A. J. W. to A. E. Johnson & Company dated Chicago, Illinois, January 6th, 1908.

Marked Petitioner's Exhibit #637.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated January 22nd, 1908.

Marked Petitioner's Exhibit #639.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated January 22nd, 1908.

Marked Petitioner's Exhibit #640.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated January 27th, 1908.

2981

Marked Petitioner's Exhibit #641.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated January 28th, 1908.

Marked Petitioner's Exhibit #642.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated February 7th, 1908.

Marked Petitioner's Exhibit #643.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated February 8th, 1908.

2982

Marked Petitioner's Exhibit #644.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated February 10th, 1908.

Marked Petitioner's Exhibit #645.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated February 24th, 1908, together with a copy of the New York Herald, article mentioned therein and also translation thereof.

Marked Petitioner's Exhibit #646.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated March 2nd, 1908. **2983**

Marked Petitioner's Exhibit #647.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated August 3rd, 1908.

Marked Petitioner's Exhibit #648.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated July 18th, 1908.

Marked Petitioner's Exhibit #649.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated July 21st, 1908. **2984**

Marked Petitioner's Exhibit #650.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated July 24th, 1908.

Marked Petitioner's Exhibit #651.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated July 25th, 1908.

Marked Petitioner's Exhibit #652.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated July 30th, 1908.

Marked Petitioner's Exhibit #653. **2985**

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated August 13th, 1908.

Marked Petitioner's Exhibit #654.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company dated August 21st, 1908.

Marked Petitioner's Exhibit #655.

Also copy of cablegram to Maxolaf, New York dated August 21st, 1908.

Marked Petitioner's Exhibit #656.

2986

Also cablegram with pencil notation to Maxolaf, New York, dated August 21st, 1908.

Marked Petitioner's Exhibit #657.

Original letter from the East Asiatic Steamship Company to A. E. Johnson & Company, dated December 7th, 1908.

Marked Petitioner's Exhibit #658.

Also original letter from the East Asiatic Steamship Company to A. E. Johnson & Company, dated January 4th, 1909.

Marked Petitioner's Exhibit #659.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated January 29th, 1909.

2987

Marked Petitioner's Exhibit #660.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Company dated February 13th, 1909.

Marked Petitioner's Exhibit #661.

Also original letter from the East Asiatic Company to A. E. Johnson & Company, dated March 5th, 1908.

Marked Petitioner's Exhibit #662.

Also carbon copy of letter from A. E. Johnson & Company to Dr. Johnson dated August 6th, 1908.

Marked Petitioner's Exhibit #663.

2988

Also carbon copy of letter from A. E. Johnson & Company to Slovak Press dated August 6th, 1908.

Marked Petitioner's Exhibit #664.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company, Copenhagen, Libau and Chicago, dated August 11th, 1908.

Marked Petitioner's Exhibit #665.

Also carbon copy of letter from A. E. Johnson & Company to the Russian East Asiatic Steamship Company dated August 11th, 1908.

Marked Petitioner's Exhibit #666.

2989

Also carbon copy of letter from A. E. Johnson & Company to User Marcus, dated August 13th, 1908.

Marked Petitioner's Exhibit #667.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated August 17th, 1908.

Marked Petitioner's Exhibit #668.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated August 21st, 1908.

Marked Petitioner's Exhibit #669.

2990

Also carbon copy of letter from A. E. Johnson & Company to A. E. Johnson & Company dated August 21st, 1908.

Marked Petitioner's Exhibit #670.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated August 24th, 1908.

Marked Petitioner's Exhibit #671.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated August 26th, 1908.

Marked Petitioner's Exhibit #672.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated August 26th, 1908.

2991

Marked Petitioner's Exhibit #673.

Also carbon copy of letter from A. E. Johnson & Company to L. Sandford dated August 27th, 1908.

Marked Petitioner's Exhibit #674.

Also carbon copy of letter from A. E. Johnson & Company to L. I. Grossman dated August 27th, 1908.

Marked Petitioner's Exhibit #675.

2992

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated August 26th, 1908.

Marked Petitioner's Exhibit #676.

Also carbon copy of letter from A. E. Johnson & Company to Victor P. Hladick dated August 26th, 1908.

Marked Petitioner's Exhibit #677.

Also carbon copy of letter from A. E. Johnson & Company to Sandford dated August 30th, 1908.

Marked Petitioner's Exhibit #678.

2993

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated August 31st, 1908.

Marked Petitioner's Exhibit #679.

Also carbon copy of letter from A. E. Johnson & Company to A. E. Johnson & Company dated August 31st, 1908.

Marked Petitioner's Exhibit #680.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated September 1st, 1908.

Marked Petitioner's Exhibit #681.

Also carbon copy of letter from A. E. Johnson & Company to A. E. Johnson & Company dated September 2nd, 1908.

2994

Marked Petitioner's Exhibit #682.

Also carbon copy of letter from A. E. Johnson & Company to the Russian East Asiatic Steamship Company dated September 3rd, 1908.

Marked Petitioner's Exhibit #683.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated September 3rd, 1908.

Marked Petitioner's Exhibit #684.

Also carbon copy of letter from A. E. Johnson & Company to Sandford dated September 3rd, 1908.

Marked Petitioner's Exhibit #685.

**2995**

Also carbon copy of letter from A. E. Johnson & Company to Lawson Sandford dated September 3rd, 1908.

Marked Petitioner's Exhibit #686.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated September 4th, 1908.

Marked Petitioner's Exhibit #687.

Also carbon copy of letter from A. E. Johnson & Company to P. Ulrich dated September 9th, 1908.

Marked Petitioner's Exhibit #688.

Also carbon copy of letter from A. E. Johnson & Company to Lundberg dated September 10th, 1908.

**2996**

Marked Petitioner's Exhibit #689.

Also carbon copy of letter from A. E. Johnson & Company to Lundberg dated September 10th, 1908.

Marked Petitioner's Exhibit #690.

Also carbon copy of letter from A. E. Johnson & Company to A. E. Johnson & Company dated September 10th, 1908.

Marked Petitioner's Exhibit #691.

Also original letter from the Russian East Asiatic Steamship Company to A. E. Johnson & Company dated March 31st, 1908.

**2997**

Marked Petitioner's Exhibit #692.

Also carbon copy of letter from A. E. Johnson & Company to the East Asiatic Steamship Company dated June 30th, 1908.

Marked Petitioner's Exhibit #693.

Also original letter from the Russian East Asiatic Steamship Company to A. E. Johnson & Company dated June 17th, 1908.

Marked Petitioner's Exhibit #694.

2998

Also carbon copy of letter from A. E. Johnson & Company to the Russian East Asiatic Steamship Company dated June 29th, 1908.

Marked Petitioner's Exhibit #695.

Also original letter from Ruys & Company to A. E. Johnson & Company dated July 8th, 1907.

Marked Petitioner's Exhibit #696.

Also original letter from the Atlantic Express to A. E. Johnson & Company dated March 14th, 1908.

Marked Petitioner's Exhibit #697.

Also original letter from Karlsberg, Spiro & Company to A. E. Johnson & Company dated April 24th, 1908.

2999

Marked Petitioner's Exhibit #698.

Also carbon copy of letter from A. E. Johnson & Company to Ruys & Company, dated May 28th, 1908.

Marked Petitioner's Exhibit #699.

Also carbon copy of letter from A. E. Johnson & Company to the Russian American Line dated December 19th, 1910.

Marked Petitioner's Exhibit #700.

Also original letter from the Russian American Line to A. E. Johnson & Company dated September 14th, 1910.

3000

Marked Petitioner's Exhibit #701.

Also original letter from the Russian American Line to A. E. Johnson & Company dated October 28th, 1910.

Marked Petitioner's Exhibit #702.

Mr. Guiler: I offer for identification book marked "Letters received A-Z" Conference No. 2 produced from the files of A. E. Johnson & Company, containing circular letters and so forth received from the Conference by A. E. Johnson & Company, and relating to other conference matters.

Marked Petitioner's Exhibit #703 for identification. 3001

Hearing adjourned to September 2nd, 1912, at Liverpool, England.

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UNITED STATES CIRCUIT COURT,

FOR THE SOUTHERN DISTRICT OF NEW YORK.

In the Second Circuit.

3002

THE UNITED STATES OF AMERICA,  
Petitioner,  
against

HAMBURG - AMERIKANISCHE-  
PACKETFAHRT - ACTIEN - GE-  
SELLSCHAFT, and others,  
Defendants.

} In Equity.

Before Charles Elliott Pickett, Esq., Special Examiner, Liverpool, England.

September 2nd, 1912. 3003

Appearances:

Henry A. Wise, Esq.; Henry A. Guiler, Esq.; John W. H. Crim, Esq., for Petitioner.

Burlingham, Montgomery & Beecher, by Norman B. Beecher, for the Anchor Line, Ltd., William Coverley, Nederlandsch-Amerikanische Stoomvaart Maatschappij, Adrian Gips, International Mercantile Marine Co., International Navigation Co., Ltd.; British & North Atlantic Steam Navigation Co., Ltd.; Societe Anonyme De Navigation Belge Americaine; Oceanic Steam Navigation Co., Ltd., Philip A. S. Franklin.



*Joseph Bruce Ismay*

3004

JOSEPH BRUCE ISMAY, sworn on behalf of the Petitioner, testified as follows:

*Direct-examination by Mr. Guiler:*

Q. What is your full name, Mr. Ismay? A. Joseph Bruce Ismay.

3005

Mr. Beecher: Now, Mr. Guiler, as you know, the subpoena was about to be served upon Mr. Ismay when in New York, and we agreed with the District Attorney's Office, to produce him for examination at some subsequent period, and pursuant to that Mr. Ismay is now attending for examination. Had he appeared at New York pursuant to the subpoena, he would, of course, have been entitled to immunity under the Act regulating these matters. It is my understanding that the Government intends to extend to Mr. Ismay the same immunity as if he were testifying in New York, pursuant to subpoena.

Mr. Guiler: That is the understanding of the Government.

Mr. Beecher: And Mr. Ismay will give his testimony—

3006

Mr. Guiler: Mr. Ismay will give his testimony as if subpoenaed under the powers of the United States Courts.

Mr. Beecher: Exactly, and upon the understanding that the Government have pledged that the same immunity will be extended to him.

Mr. Guiler: That is agreed.

Mr. Guiler:

Q. Where is your residence, Mr. Ismay? A. Liverpool.

*Joseph Bruce Ismay*

3007

Q. And what is your business? A. Steamship owner.

Q. How long have you been in business? A. Thirty-two years.

Q. For what lines have you been manager, or what lines have you represented during the time you have been in business? A. The White Star Line.

Q. The White Star Line at all times? A. Well, I was not manager for them all the time. I started at the bottom of the tree as office boy and worked my way up.

Q. And you are a thoroughly practical steamship man? A. I think I know something about it. 3008

Q. And have you had experience of steamship matters practically all your business career? A. Practically all my business career has been connected with steamships.

Q. Now, in addition to the White Star Line you have been manager for what is called the International Mercantile Marine? A. I am president of the International Mercantile Marine.

Q. And of what is that International Mercantile Marine composed, what lines? A. The Atlantic Transport Line, the White Star Line, American Line, the Pacific Dominion Line, the British North Atlantic, and Atlantic Transport Company. That is all, I think. I think I said the White Star Line. 3009

Q. Now, the International Mercantile Marine is a member of various conferences of steamship owners, is it not? A. Yes.

Q. Now, will you mention the name of the steamship conferences of which the International Mercantile Marine is a member?

Mr. Guiler: It is understood that, under the stipulation made earlier in this case, an objection is reserved to each of the defendants, to

*Joseph Bruce Ismay*

3010

any evidence of any agreement or conference, other than the agreement AA, as not within the issues, and irrelevant and incompetent.

A. I beg your pardon. I am afraid I could not tell you them all. There are a great many of them.

Q. Tell me just as nearly as you can? A. I do not know how to explain, what is the best way to put it. There is a Mediterranean Conference, the AA Agreement.

Q. Perhaps I could help you out by asking you about the various conferences.

3011

Mr. Beecher: May I suggest, we are going to get before you all the agreements which make us members of any conferences, and you have simply got these agreements and that gives you the answer.

Mr. Guiler: I wanted to get on the record for the purposes of the Court the various conferences.

Mr. Beecher: I take it, there is no objection to Mr. Cauty prompting Mr. Ismay?

Mr. Guiler: If it is understood that Mr. Ismay is testifying.

3012

Mr. Ismay: I have no doubt about the policy but I do not know the details. Mr. Cauty has got the details at his fingers ends.

Q. (Mr. Crim.) Briefly, it is a member of the Continental Mediterranean, North Atlantic.

Q. (Mr. Guiler.) And the Chicago Complaint Committee? A. I never heard of that.

Q. Briefly, they are members of what Mr. Crim has mentioned? A. Certainly.

Q. What are they called? A. Could we not put it shortly by saying North Atlantic Conference, and Mediterranean Conferences.

*Joseph Bruce Ismay*

3013

Q. I understand, Mr. Ismay, that the Atlantic Conference covers all steamship lines which run between the United States, Canada, and Great Britain? A. And also the Continent.

Q. And also the Continent? A. They are members of that Conference.

Q. They are members of the Continental Conference? A. And the North Atlantic Conference.

Q. And the Mediterranean Conference? A. Yes.

Q. That covers it pretty well? A. I think so.

Q. The various conferences which I have mentioned are split up, are they not, into smaller groups? A. Yes.

3014

Q. What lines can you mention which compose the smaller groups? Are they British Lines in a smaller conference, British Lines themselves? A. No, I think not. There is a Scandinavian Conference.

Q. I understand that the British Lines in theory, had a conference, or rather the International Mercantile Marine, for instance, are given a certain percentage of the business of the various conferences, and they divide amongst various lines in the International Mercantile Marine the percentages which are given to it? A. That is so. A percentage is given to the International Mercantile Marine, and that is divided up amongst what you may call the subsidiary companies.

3015

Q. The general theory of a conference is, is it not, to cover a certain territory, the business of a certain territory? A. Yes.

Q. That is the first theory, and to divide up among each of the lines who are members of that conference according to certain percentages, the profits of that business, the steerage business? A. They get a percentage, that percentage, of course, is based on their carryings.

Q. Based on their carryings. In what way do they first get that percentage? A. It is based on their carryings.

*Joseph Bruce Ismay*

3016

Q. For how many years back do you usually take?  
A. I think three.

Q. About three years. That is, they find out about how much business each of the lines has been getting in the last three years back, and they are given a percentage proportionate with that? A. Some get more and others get rather less.

Q. Unless they are able to force a larger percentage? A. It is generally a fight as to who can get most.

Q. Some really get more than they ought to? A. Yes.

3017

Q. Now, in carrying out this conference idea, there is a certain check, is there not, on lines doing as they wish in regard to the carrying of the steerage passengers, that is, increasing their carryings more than their percentage? A. Well, they can carry over that percentage if they wish to do so.

Q. And what occurs when they do carry over that percentage? A. They have to pool the excess.

Q. What do you mean by that? A. If they carry over a certain number they have to pay a certain sum of money into the pool for the excess number they carry.

3018

Q. What is the usual amount they have to pay in?  
A. I think it is £4.

Q. That is called in a way, compensation money. is it not? A. Compensation to the lines which have under-carried their passengers.

Q. That is supposed, is it not, to compensate the other lines for the excess which that particular line has carried? A. The lines which have not carried their full number of passengers.

Q. Oh, yes. Is there any other purchase of that compensation money? A. Not that I am aware of.

Q. Is not that a check on lines carrying more than they ought to? A. No, I do not think so.

Q. That is, the compensation money is supposed to satisfy— A. The lines which are short carried.

Q. So that the line which is short carried does not lose anything, does it? A. It would lose.

Q. It would lose? A. Yes.

Q. You mean to say the compensation money would not make up for the loss of passengers which they failed to carry? A. No, it would not.

Q. Now, I understand, Mr. Ismay, that the territory covered by the various conferences is Mediterranean territory, the Continental territory, and again, the Italian business via Genoa, and the Scandinavian business? A. I think it is all specified in the agreements.

3020

Q. Is that substantially correct, what I have said, that the business originating in these various territories—we will add to that the British business? A. And the Scandinavian.

Q. That is the business between those places and the United States and Canada, both eastbound and westbound? A. That is right.

Q. Now, I understand that all the territory is covered by conferences of the various steamship lines? A. I think it is, yes.

Q. And is and has been covered by conferences? A. Yes.

3021

Q. For how many years have conferences existed, if you can remember it? A. No, I do not; I could not answer that question.

Q. (Mr. Crim.) The first conference was the so-called N. D. L. V., was it not, Mr. Ismay, among the passenger lines on the Continent? A. Yes, certainly.

Q. That was the first important conference? A. So far as I am aware, it was the most important conference.

Q. It was between the North Deutscher Lloyd, Hamburg-American, Red Star and Holland-American? A. Yes.

Q. That was the first large and substantial conference that was able to control a substantial part of the business, was it not, from the Continent? A. Certainly, from the Continent.

Q. And following that conference and its operation for two or three years, the White Star Line became a party to a British Conference, is not that so? A. I could not say whether that was subsequent to the N. D. L. V. Was our first conference in 1880? I do not know when the N. D. L. V. started.

3023 Q. (Mr. Guiler.) In 1891? A. Well, you see, we had conferences in England before that among the British Lines.

Q. (Mr. Cripps.) It seemed from a casual reading of the N. D. L. V., and the agreement of the British Lines, that the British Lines had been forced into a pool by the N. D. L. V.'s operations? A. Oh, no.

Q. That is not so? A. No, you see the British Lines at one time had a percentage of the Continental traffic from the N. D. L. V. lines.

Q. Fourteen per cent was apportioned to the British Lines? A. It varied. We used to have meetings and we used to get as large a percentage as we could of the Continental traffic. I think it was down to eight at one time—six.

3024 Q. These conferences you speak of, previous to the N. D. L. V. were local in their operations, that is the British Lines? A. I think it applied purely to the British Lines.

Q. And would you say those conferences ante-dated these Continental Conferences? A. I could not answer the question, but it is easily arrived at, easily found out, rather.

Q. (Mr. Guiler.) Now, in regard to the carriage of passengers from Continental ports, there are at the present time, very few Continentals carried through Genoa, are there not? A. Continentals through Genoa?

Q. Through the Italian ports we will say. There are very few carried through? A. Continentals?

Q. Yes? A. What you call the Italian?

Q. Yes? A. There are none, I should say.

Q. There are none carried through the Mediterranean ports? A. Practically none.

Q. And from what ports are they carried? A. Why usually from Hamburg, Bremen, Antwerp and Rotterdam.

Q. The matter of carrying them through Hamburg, Bremen, Antwerp and Rotterdam, is a matter of agreement in regard to Continental passengers? A. It is where those four lines run their steamers from. Hamburg is the port from which the Hamburg-American Line runs, Bremen is the port of the North German Lloyd, Antwerp of the Red Star Line and Rotterdam, of the Holland-American Line. They are really the four important lines that run to New York.

3026

Q. As I said, is not that the reason why the Continentals are carried through those ports, because of an agreement entered into between the various Continental Lines, to the exclusion of the Italian ports? A. I don't think I quite follow the question.

Q. Perhaps I have not made myself clear? A. Not to me.

Q. I do not like to bother you about all these details? A. I am glad to answer any question I can.

3027

Q. I understand there is a so-called Continental Conference? A. Certainly.

Q. Which covers Continentals? A. Continental passengers.

Q. And then there is a Mediterranean Conference covering Mediterranean passengers, Italian ports? A. Yes.

Q. Now the various Continentals under those agreements, under this pooling arrangement, are carried through Hamburg, Bremen, Antwerp and Rotterdam? That is right? A. Yes.



*Joseph Bruce Ismay*

3028

Q. And carried through there exclusively? A. Well, I am reminded, some go through Fiume and Trieste, by the Cunard Line and the Austro-Amerikana.

Q. Those are principally Hungarians are they not? A. Hungarians and Austrians.

Q. (Mr. Crim.) Is it a matter of agreement, Mr. Ismay, that those particular emigrants are apportioned by the Conference to the Austro Line and the Cunard Line, by Trieste and Fiume? A. No, I think not, I think it is just passengers they get.

Q. Those particular emigrants are allotted to those two lines from those ports? A. They would pool them, would they not?

Q. To the exclusion of the other steamship lines, those that travel through Trieste and Fiume are apportioned to the Cunard and Austrian Lines?

Q. (Mr. Guiler.) But taking the majority of the Continentals, they travel almost entirely through the four ports we have mentioned, Hamburg, Bremen, Antwerp and Rotterdam? A. A very large majority of them.

Q. Now, the distance between some places in the Continental nations such as Austria and other places, and Hamburg, Bremen, Antwerp and Rotterdam are greater, are they not, than the distances to the Mediterranean ports? A. I presume that is so.

3030

Q. And if a Continental therefore is carried from Hamburg, Bremen, Antwerp or Rotterdam he is travelling further than he would if he started by Genoa? A. It would depend where he started from.

Q. If he starts from the further points covered by the Continental agreement? A. He would be further away, yes.

Q. Supposing, Mr. Ismay, that every line—supposing there had been no conference and every line had been carrying up to its full capacity, or practically up to its full capacity, of steerage passengers, would

*Joseph Bruce Ismay*

3031

there be any reason for bringing into existence the Conference? A. Yes, every reason, I think.

Q. What reason do you give for that? A. For regulating the business and working it on satisfactory lines.

Q. Is not the principal reason for making a conference that all lines are not getting their full capacity of bookings? They are not travelling up to their full capacity—is that not the object of the Conference? A. The object of the Conference?

Q. Yes? A. No, certainly not.

Q. That is not the object? A. No, certainly not.

Q. May I show you a copy of a letter taken from the Holland-Amerika Line, dated January the 9th, 1900, directed to Mr. Ballin, by you, and I will ask you if you wrote that letter to Mr. Ballin at that time? A. (Witness perused the letter.) This is in regard to first-class passengers.

Q. I know that, but I was asking about the Conference in general. You wrote that letter, did you not? A. I presume so. You show me a copy and I presume I wrote it.

3032

Mr. Beecher: I understand, Mr. Guiler, that your questions are, and that this sitting is directed to the agreement relating to the steerage traffic between the United States and Europe. Am I correct?

Mr. Guiler: That is true to a certain extent.

Mr. Beecher: And does not relate to first-class or other passengers.

Mr. Guiler: Under the question of control of the situation by the steamship lines we have proceeded so far on the ground, in order to show that control, that we can take in in addition to the third-class passengers, both first and second-class passengers, and, therefore, the

3033

*Joseph Bruce Ismay*

3034

agreements on that ground are admissible, and anything relating to them is admissible, under the Act.

3035

Mr. Beecher: I understand the position taken up by the defendants throughout, is that the inquiry should be confined to the steerage passengers to which the bill of the Government is addressed, and I suggest that, as, of course, no rulings can be made on the subject of evidence in this examination, if you do go outside the steerage inquiry, that you should make it entirely clear, as otherwise, Mr. Ismay and ourselves will naturally assume that you are relating only to the steerage passengers.

Mr. Guiler: That is fair, yes.

Mr. Crim: That is fair.

Mr. Guiler: Then I offer that letter in evidence, Petitioner's Exhibit No. 704.

3036

Q. (Mr. Crim.) I take it from your answer, Mr. Ismay, that it is immaterial to the members of the several conferences that the White Star Line is party to, whether their ships are carrying their full capacity, or whether they are carrying very much below their full capacity, as to the benefits of the pool? A. Do you mean to say that it is immaterial to us whether we are carrying our percentage or not?

Q. No, what I mean is this: the reasons for the pool are just as great when your vessels are filled with passengers as when they are not filled? A. Yes.

Q. And the purpose of the pool is to bring about a stability of rates? A. A stability of the whole general business.

Q. That is in effect a stability of rates? A. Yes.

Q. And to get as good a rate as possible? A. Yes, to get a fair rate.

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Q. And again the purpose of the Conference is to prevent outside competition, is it not? A. The object of the Conference is to regulate your business. You can have a conference without a pool.

Q. And the regulation is manifested in these two directions is it not, the maintenance of the rates and the prevention of competition from outside lines? A. No, you have competition from outside lines. Although you have a pool and you have a conference you still have competition.

Q. Now, Mr. Ismay, let me refresh your recollection, by calling your attention and showing you what purports to be a report of the Royal Commission on Shipping Rings, page 219, Vol. 4. It is the testimony of Harold A. Sanderson and is as follows: "Q. What is their object and purpose? A. The object, I should say, was to bring about the mutual understanding between those in the trade with a view to maintaining the rates avoiding unnecessary competition, supplying the trade to the best advantage and avoiding clashing in sailings and otherwise working the trade advantageously for all concerned." Does that refresh your recollection in any respect with regard to the purposes of pools? A. That is Mr. Sanderson's view.

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Q. Have you found it, in your experience, a correct or an incorrect view? A. I think it is very fairly correct.

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Q. (Mr. Guiler.) Take Agreement "A. A.," Mr. Ismay. In carrying out that agreement, what do you do, what do the lines you represent, usually do, to maintain their percentage in the pool. Just tell me, in your own way, what they do? Did they raise or did they lower rates? Did they attempt to maintain their position? A. Certainly we did. We always try to carry our full percentage.

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Q. That is to say, you do not wish to run over your percentage any more than you can help? A. No, we wish every line to carry its percentage.

Q. Supposing you were plus in the pool, what would you do to bring yourself down to the proper percentage if you are carrying more than your percentage? A. Well, the other lines might reduce their rates or we might put our rates up.

Q. Well, if you put your rates up, would that not drive passengers away from your line? A. It would have that tendency, certainly.

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Q. But if the other lines should raise their rates and you should put them up too, but not quite so high as the other lines, that would still attract passengers to you, would it not? A. If what?

Q. If you are lower than the other lines, say, if there was a general rise of from thirty-five to forty dollars, everybody advanced, and you did not advance quite so much, you would still get a greater number of passengers than the other lines, would you not? A. Yes.

Q. As I understand, Mr. Ismay, the steerage passengers go where they can get the lowest rates? A. Not exactly.

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Q. As a general rule? A. Yes, I should think as a general rule.

Q. They are always on the lookout for the lowest rates? A. Not entirely. Take, for instance, the case of a man who is working in America, and making five dollars a day, it pays him to pay a higher rate on a fast ship than a low rate on a slow ship. For instance, supposing a ship is going to take ten days to cross the Atlantic, and another ship is going to take five days, that means that he has five working days in America, and assuming he is earning five dollars a day, it enables him to earn 25 dollars, therefore it pays him better to pay the higher rate for a fast ship

and to travel by a fast ship rather than by paying a lower rate and traveling by a slow ship.

Q. That is correct as to emigrants to America? A. No, from this country to America. He does not get five dollars a day in this country.

Q. I was not talking of this country particularly. Perhaps I should have mentioned the Continent? A. You are talking of westbound passengers now, and it pays a man to pay a higher rate for a fast ship, because it gives him so many more working days in America, and instead of being on board and doing nothing he is able to work and earn money.

Q. You are assuming the case of a man going over there to do some work and staying there? A. Yes, the man who is going to stay there.

Q. You must remember that a large number of third-class passengers come over to this country for a month or two months? A. Yes.

Q. Has it not been your experience that where a low rate or a very low rate has been in effect more passengers have been attracted to that line, there have been more steerage passengers sailing by that line than if there were some higher rates charged by another company? A. No, I do not think so. Take the "Mauretania" or the "Lusitania," they are always full no matter what their rate is. You may have a low rated ship sailing the same day, and it would not get the passengers.

Q. Supposing you have a 22 dollar rate from Rotterdam, and another line has a 35 dollar rate, don't you think you would get your full capacity with the 22 dollar rate rather than the other line with the higher rate, or you might over-book? A. A good deal would depend on the ship.

Q. All conditions being equal the steerage passenger would take the lower rate ship rather than the one with the higher rate, would he not? A. If you take

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two ships equal in all respects and the rate for one is 22 dollars and the rate for the other is 35 dollars, naturally the man would go in the 22 dollar ship. My point is that supposing you had the "Lusitania" sailing, and a very inferior third-class ship sailing the same day, I think you would find the "Lusitania" would fill at a £7 rate and that the other ship would go with a very small number of passengers at a £5 rate.

Q. In all these ships the accomodation is no better than the other? A. Oh, yes, very much better.

3047 Q. They are? A. Yes.

Mr. Crim:

Q. In establishing the rate do you take into consideration the character of the vessel? A. That is so, its speed, accommodation and everything.

Mr. Guiler: In regard to the matter of the conference reports, how does the conference conduct its business in general? A. It has a secretary.

Q. Where is that secretary located? A. At Jena.

Q. Now reports are made regularly to him, are they not, by the various lines as to their carryings? A. Yes.

3048 Q. And matters of general information to the various lines are conducted through him, are they not? A. Yes, through him.

Q. And there is a branch of the Conference at Liverpool, is there not, with Mr. Smyth as secretary? A. Yes; he is secretary for the North Atlantic Passenger Conference.

Q. And there is another in New York with Lawson Sandford as secretary? A. He is the secretary.

Mr. Beecher: He is not now. I do not think any one has been appointed. I do not want to have it wrong on the record.

The Witness: He was secretary when I was in New York.

By Mr. Guiler:

Q. He was secretary up to within a month or so?

A. Yes.

Q. And during the period I am dealing with? A. Yes; that is so.

By Mr. Crim:

Q. Briefly, Mr. Ismay, what are Dr. Peters' duties as secretary at Jena? A. He makes up all the pools of the districts and he disseminates all the information among the various steamship owners. Everything goes through him.

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Q. And part of the information which he disseminates is as to the percentage of each line periodically?

A. Yes; they come every week, every month—no, every week. He issues every week, a statement to each of the steamship companies which shows exactly the position of each line.

Q. And does he make requisition to the several lines for the penalties provided for in Agreement "AA"?

A. The penalties?

Q. The payments, disbursements, from each line?

A. Oh, yes.

Q. For instance, if a line has carried more than its quota under "A. A" they would pay that excess to him? A. I really do not know about this. I presume he tells you to send a cheque, the Cunard Co., or whatever company it may be.

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By Mr. Guiler:

Q. Under Agreement "A. A," each line is required, is it not, to put up a certain guarantee, or promissory note for 1000 pounds for each one per cent of percentage it gets? A. I do not know the amount. I know we have to deposit a promissory note.

Q. That is a guarantee that it will live up to the agreement? A. Yes.



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Q. If it does not live up to the agreement, for instance, if it withdraws unauthorizedly before the termination, or refuses to pay compensation money, or fails to replenish its deposit, or if it starts or assists a new line in competition, that is competition with any of the contracting parties in 2 "AA," then a penalty may be imposed by the secretary on that line?

A. Yes, I believe that is so.

Q. A penalty of not less than £250 for violation of it? A. I believe that is so.

Q. That is done by arbitration, is it not? A. Yes, I believe it is.

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Q. And if the secretary finds there has been a violation he may impose a penalty? A. No, I think not. It is done by arbitration.

Q. The penalty then is imposed after the arbitration is held? A. I presume that is so.

Q. Now, you were present, Mr. Ismay, at a meeting of the North Atlantic Conference on May the 25th, 1908, at which certain fighting ships were decided on, or a policy in regard to fighting ships against the Russian Asiatic, New York & Continental and the Volunteer Fleet was decided on? A. I think I was present. My name would be there if I was.

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Q. Does that refresh your memory as to whether you were present or not? A. Yes, it does. I was there.

Q. Do you remember who it was who first suggested the matter of fighting steamers to fight the competition of the Volunteer Fleet, the New York Continental Lines and the Russian East Asiatic Co.? A. I cannot answer that.

Q. Was it a matter of general discussion? A. It was discussed at the meeting.

Q. How the conference would fight this competition which had recently come up? A. Yes, I think that is so.

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Q. And Mr. Sanderson, Mr. Cauty and Mr. Curry were also present, were they not? A. Yes.

Q. Now, you decided what policy should be taken in regard to outside competition eastbound from New York? A. Yes, that is so, I think. It would be in the minutes, would it not?

Q. That was against the various lines which I have mentioned? A. Yes, I believe so.

Q. These are the minutes of that meeting, the correct minutes? A. Yes.

Q. There is no need to bother further about them. I offer these minutes of the meeting of May the 25th, 1908, held at the Savoy Hotel, London, England.

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Petitioner's Exhibit No. 705.

By Mr. Crim:

Q. And so far as you know, that is a correct transcript of what occurred at that meeting? A. Yes, I take it to be so.

Q. You do not doubt that it is correct? A. No, I do not.

Q. Mr. Ismay, you have read the Agreement "AA"? A. I have.

Q. And you were a party to the conference of steamship interests which brought about that agreement? A. I was, that is the February agreement.

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Q. And so far as you have been able, you have carried out the terms of that agreement to the letter? A. We have, so far as I know. If we have not, we ought to have done so.

Q. You are operating under the agreement today? A. Substantially we are. Of course, the agreement was slightly altered in 1911.

Q. And so far as you know all the other parties have carried out these terms, and where there have been irregularities, or supposed irregularities, they have

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been submitted to arbitration pursuant to the terms of that agreement? A. That is so.

By Mr. Guiler:

Q. Now you, personally Mr. Ismay, had correspondence with Mr. Peters on various occasions about various pool matters, had you not? A. I think I must have had. I do not remember. You have asked us for copies of all these, I understand, and that could be proved. Any correspondence I have had with Mr. Peters, or from him, I understand, will be put in.

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Q. And you would take up the various pool questions with him, would you not? A. Yes, but that letter you have got there is not mine.

Q. Is this (produced) a copy of a letter you sent to Mr. Peters at one time? A. Yes, that is a copy. That is right.

Q. That was advising him with regard to the British percentage? A. Yes, that is right.

Q. And he called on you?

I offer that letter in evidence, a letter dated the 25th of April, 1908, with annexed copy from Mr. Ismay, dated April, the 22nd, 1908, and the letter of Harold Sanderson to Peters, dated April 22nd, 1908.

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Petitioner's Exhibit No. 706.

The Witness: I am willing to answer every question I can. We will give you all the information we have at our disposal.

Mr. Crim: We are perfectly satisfied with it, Mr. Ismay.

By Mr. Guiler:

Q. With regard to these fighting ships, the policy of meeting the competition of outside lines such as the Uranium Line, the North West Transport Co., and

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the New York & Continental, was made according to the minutes of May, the 25th, 1908, by a small committee appointed by the American Atlantic Conference selecting fighting steamers so-called, who were to sail on the same day, or approximately the same day, and at practically the same rates as the steamers of the outside lines which I have mentioned? A. My recollection is that a committee was appointed in New York, and they selected the steamer which was to compete with the Uranium Steamship Co., and they selected the steamer which sailed nearest to it, to the competing steamer, but I have no recollection of the rate ever being below the rate of the Uranium Steamship Co.'s steamer.

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Q. You will have a recollection that it was the same? A. That I could not say. I have no recollection of our rate ever being lower.

Q. You did not go into the details of that matter? A. No, I did not. Mr. Cauty can answer that.

Q. We will go into it with Mr. Cauty. I will not bother you with details. At any rate the rules laid down at the meeting of the 25th of March, 1908, at London were carried out in New York? A. Were carried out in New York.

By Mr. Beecher:

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Q. That is for a certain period? A. Yes, were carried out. They are not carried out now.

By Mr. Guiler:

Q. For a certain period they were carried out? A. Yes.

Q. And again about a year after that the rules were revised? The Small Committee was revised and the same process went on? A. For a certain length of time the fighting ship was discontinued altogether.

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Q. And Rule 22, By-law 22, was put into effect? By the way, what is that By-law 22 which is mentioned? A. That is what you have got I think. That is the fighting scheme. You really want a minute with No. 22 on it, do you not?

Mr. Guiler: Let me see that.

Mr. Beecher: We will have that along with all minutes.

Mr. Ismay: Why not put in that (indicating)? It is really Minute 22.

3065 By Mr. Guiler:

Q. You mean this meeting marked March 25th, 1908 is really Minute 22? A. Yes.

Mr. Beecher: And you can substitute the printed Minute 22 for it when you get it.

By Mr. Guiler:

Q. Another means of meeting the competition of the Volunteer Fleet, the Russo-East Asiatic and the New York Continental was by putting into effect Rule 9 as to agents in New York, was it not? A. I am not clear about it, and I do not know quite what was done about that.

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Q. Do you remember what Rule 9 was? A. No, I do not think I do. The New York Continental and the American Steamship Company—

Q. Rule 9 is in regard to agents not representing anything but Conference Lines. It is agreed, is it not, that Rule 9 is that agents of various lines shall not represent any other line, any other outside lines except Conference Lines, under a penalty of disqualification. Is that right? A. I am not quite certain how that is worded.

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Mr. Beecher: I would suggest that the Rule is already in evidence on one of the Government exhibits.

Mr. Guiler: I will have a look at it.

By Mr. Crim:

Q. So far as you know the provisions of Minute 22 were carried out with regard to the Russo-East Asiatic, the Volunteer fleet and the New York Continental Line? A. Yes.

Q. And your company particularly contributed to the compensation of the so-called fighting steamer?

A. Yes, and I have no doubt we received compensation also.

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Q. The consequence of that situation was, in a word, to prevent other competition, was it not? A. Yes.

By Mr. Guiler:

Q. There is Rule 9 of the Continental Conference (document produced)? A. (After examining.) Ours is differently worded to that.

Q. Now, according to Rule 9 agents were disqualified if they represent—agents in New York and various places in the United States were disqualified if they represented anything else but Conference Lines? A. If they booked for any other line but a Conference Line.

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Q. Do you remember the case of Zotti of New York? A. I do not remember him. Did he buy a steamer?

Q. In general then that Rule 9 was enforced to meet the competition of the Volunteer Fleet, the Russo-East Asiatic and the New York & Continental Line? A. Not those lines specifically, I think it was put in there to meet the competition of any outside lines which might come along.

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By Mr. Crim:

Q. That was the purpose of it, was it not? A. After the pool with these three companies you have mentioned.

By Mr. Guiler:

Q. Any outside line? A. Yes.

Q. Do you remember instances of any of your boats having been used at any time as fighting steamers? A. The White Star steamers have been used as fighting steamers.

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Mr. Beecher: The general effect of it is that it is not exactly legal, but it is not illegal.

By Mr. Guiler:

Q. Mr. Ismay, do your lines keep an account of the expenses and of the cost of service and actual cost of ship tonnage and so forth for every tonnage? A. We make up a voyage account for every voyage.

Q. You do, and it shows exactly what is charged to passengers, charged to freight, cargo, tonnage and so forth? A. Yes.

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Q. And have you any financial statements for your lines, have you any financial statements of the conditions of your lines, coming out at the end of the year, annual reports? A. Oh, yes, certainly.

Q. Now could you let me have one or two reports of actual voyage expenses of the "Adriatic" and the "Baltic" and one or two of your boats of about 10,000 tons? A. I do not think we would like to divulge that. It is giving information to our competitors which we would not care that they should have.

Mr. Beecher: We do not want to have the statement of our accounts put in the records and probably if you want it just to look at for

the purpose of examination or something of that sort—

Mr. Guiler: If you could let us have one or two for the purpose of examination I would be very much obliged.

Mr. Beecher: We will take that up along with other matters. That is something Mr. Ismay would not testify to.

By Mr. Crim:

Q. Will you state briefly for the record how those details are worked out, as to each voyage, how they are apportioned by their companies? A. I am afraid I could not tell you that. We simply take all the earnings and the expenses and take one from the other and arrive at the profit or loss the ship has made on that voyage. 3074

Q. How do you take into account the maintenance of that vessel? A. We get the return at the end of the voyage of the quantity of stores that have been consumed, first-class passengers, second-class passengers, and third-class passengers, and we have a return at the end of the voyage showing exactly what it has cost us for first-class passengers, second-class passengers and third-class passengers.

Q. And your coal and supplies for the vessel are carried out in detail? A. We know what our coal costs us, our port charges— 3075

Q. How much do you allow for depreciation of your vessel? A. Do you mean the International Mercantile Marine Company?

Q. Yes? A. Four per cent.

Q. Annually? A. Annually.

Q. Annually, and do you think it would amount to that over a period of say twenty years or twenty-five years? A. Well, the life of a steamer is not twenty or twenty-five years.



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Q. What is the life of a steamer, Mr. Ismay? A. The age depends on competition.

Q. Can you give us an estimate of what the life of your steamers has been in the competition in the past twenty years? A. No, it would be very difficult. You may build a ship and for a long time none of your competitors build any ships, therefore the life of that ship will be very much longer than if you build a ship and all your competitors come along and build new ships two years afterwards. That immediately depreciates her enormously.

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Q. You have operating in the carriage of third-class passengers vessels that have been in operation for years, have you not? A. Yes.

Q. Some of your vessels that are now in operation have been carrying passengers for fifteen or twenty years? A. Yes, and they are now carrying passengers at a heavy loss because they are out of date.

Q. That is, those particular vessels are carrying all classes of passengers at a loss? A. Yes, making a loss now.

By Mr. Guiler:

Q. What vessel have you in mind, Mr. Ismay? A. I am giving away all my state secrets, you know.

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Mr. Beecher: I do not think we are going into a detailed examination of operations.

By Mr. Crim:

Q. You would not say your whole fleet is operating at a loss? A. Oh, no.

By Mr. Guiler:

Q. You would not say it is operating at a profit? A. Well, the accounts speak for themselves. You have asked to have the accounts; I think you wanted one of our annual reports.

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Mr. Guiler: I do.

By Mr. Crim:

Q. And the most profitable business you have is the passenger business, is it not, Mr. Ismay? A. Do you mean to say taking over the whole North Atlantic—oh, yes.

Q. Do you carry freight at a profit or a loss. Take a period of the past five years. Has your fleet been meeting its cost of transportation? A. What do you mean by that exactly?

Q. Have your earnings from your transportation of freight from America to the British Isles been sufficient to meet the cost of that transportation during the past five years? A. Do you mean to say if we were to debit the amount of coal that had to be consumed for carrying that freight across?

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Q. The apportionment? A. I could not answer that question.

Q. Have you a system of bookkeeping that would indicate it? A. No. You see to arrive at that you would have to divide your coal consumption up between your cargo and your first-class passengers, second-class passengers, and third-class passengers. It would be a very difficult thing to get at. All your engine room stores would have to be divided up in the same way.

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Q. You have no system of accounting to show you? A. No, so far as our fleet is concerned we simply debit the earnings with the cost of putting into ship and out of ship.

Q. In the transportation of passengers by rail our American Lines are able to estimate just about what it costs to transport a passenger between two given points. Have you any system on your steamship lines of estimating the cost of transporting a passenger? A. No.

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Q. Or the mean cost of transporting a passenger for a period of years? A. No, we never have taken it out.

Mr. Beecher: Of course you have separate conveyances on your railroads for freight and passengers.

Mr. Crim: With the exception of two or three lines in America, all the lines carry passengers at a loss.

By Mr. Guiler:

3083 Q. Were you present, Mr. Ismay, at a meeting at which the Scandinavian Line was made a member of the pool, at a meeting of the conference? A. Have you got the minutes.

Q. I have not the minutes of that meeting, no. A. I am not sure whether I was there or not.

Mr. Beecher: Can we not put our answer, "I am not certain, the minutes will show," or something like that?

By Mr. Guiler:

3084 Q. The object of that agreement with the Scandinavian Line was to confine the Scandinavian Line to Scandinavian and Finish passengers alone, was it not? A. I think it was. They had never been in any other business.

Q. They were taking Continentals, I understood. I understood that was stated in the agreement? A. They were members of the conference before that, and then they came into the pool. They got a percentage of the Scandinavian business, or rather, to put it another way, they gave us a percentage of the Scandinavian business.

Q. They got as much as they could, a percentage of 2.70 eastbound and 3.50 westbound? A. Of course that is a subsidiary agreement altogether.

By Mr. Crim:

Q. Mr. Ismay, why is the disparity between the eastbound and the westbound percentage in that case? A. It would be based on their carryings, three to five years' carryings.

By Mr. Beecher:

Q. Three years' carryings prior to the time of fixing the percentage? A. That is right.

By Mr. Crim:

Q. Ordinarily the eastbound and westbound rates are the same over a particular line? A. They are about the same. 3086

Q. This was the experience of the conference, you would say, over a period of years? A. Approximately.

Q. Now are your eastbound and westbound freight rates the same? A. I am afraid I could not answer that. We have fine things going west, and provisions coming east.

Mr. Beecher: That is a pretty difficult question.

By Mr. Crim:

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Q. Do you in estimating your rates try to obtain substantially the same return on your voyage eastbound and westbound? A. We try to get as much as we can both ways.

Q. The rate on your westbound traffic is determined partly upon the amount of tonnage you will have on the return? A. No, that has nothing to do with it at all.

Q. Is it not an important factor? A. You mean to say our eastbound rates are covered by our westbound cargo?

Q. To a certain extent? A. No, I wish it was.

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*Joseph Bruce Ismay*

Mr. Beecher: You have the idea of tramp steamers going to the west coast of Africa, or something of that sort, where they will fix a low rate in order to get there.

Mr. Ismay: We have to get there.

By Mr. Crim:

Q. I had that in mind, and wanted to ascertain if that held true to any extent in regard to the White Star Line? A. You see we have to operate our ships whether we have got cargo or not, on account of our passenger commitments.

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By Mr. Guiler:

Q. Now I will show you, Mr. Ismay, a letter of December 9th, 1908, with cable annexed, and also the paper headed "Atlantic Conference" dated December 5th, 1908, purporting to be minutes of a meeting held at Cologne on December 3rd, 1908. Can you identify them as being the minutes of the meeting of that date? A. No, you see, I was not present at that meeting.

Q. Can you identify that as a White Star letter, with that annexed? A. Yes, a White Star letter.

Q. And that, substantially, those minutes are correct? A. I have no doubt they are perfectly correct, but I was not present at the meeting.

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Mr. Guiler: I offer that in evidence.

Petitioner's Exhibit 707.

By Mr. Guiler:

Q. In No. 12 of those minutes you will notice the matter of control stations on the frontier of Germany, German-Prussian frontier, and various other places along these frontiers, came up. Now the British lines have been bothered somewhat about their passengers getting across the frontier stations, have they not? A. Yes, I think they have.

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Q. In what way have they been troubled, and to whom did they attribute the trouble in getting across the line? A. I cannot give you all the details, Mr. Cauty will give you all that.

Q. I offer that in evidence anyway. In December, 1910, the various members of the conference had some trouble with one another as to whether Agreement "AA" should continue to exist or not, or November, 1910? A. Do you know what the circumstances were?

Q. I will show you a letter. See if that refreshes your recollection. (Letterhead to Mr. Ismay and examined.) A. Yes, I must have been present.

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Q. And any troubles that arose at that time were—? A. They were patched up.

Q. Were settled up, so that the conference is just as strong as ever.

Mr. Crim: When was that?

Mr. Guiler: December 3rd, 1910.

Mr. Ismay: We renewed the agreement for five years, I think.

By Mr. Crim:

Q. What was the period of time in which the conference was suspended, Mr. Ismay, at that time? Do you recollect? A. I do not think it was suspended at all. Are you not getting mixed up between what you call the conference and the pool? They are two different things altogether.

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Q. I have been using them as synonymous terms. A. There has been a North Atlantic Conference for years and years and years.

Mr. Guiler: I offer in evidence the letter of December 3rd, 1910, with various minutes of conference meetings.

Mr. Ismay: That is the agenda—two agendas and minutes of the Italian Conference.

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*Joseph Bruce Ismay*

Petitioner's Exhibit 708.

By Mr. Crim:

Q. Mr. Ismay, I find in Petitioner's Exhibit 82, part of a sentence in which it says, "During the fight when conference was suspended." Can you tell me what is meant by that expression of conference being suspended?

Mr. Beecher: Who is that from?

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Mr. Crim: It does not seem to be signed. It refers to some agent who has sold tickets at less than the conference price and when the conference was reorganized they tried to withdraw.

Q. That refers to the Mediterranean Conference. Do you remember what the occasion of that suspension was? A. No, I do not.

Q. I understand, Mr. Ismay, an attempt was made to enter into an agreement with the Hungarian Government and the Cunard Line, I do not know whether the White Star Line also, with regard to the Cunard Fiume service?

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An objection is noted, pursuant to the stipulation on behalf of the defendant Cunard S. S. Co., upon the ground that this evidence is not within the issues, and is incompetent, and upon the further ground that it is hearsay.

A. We had no negotiations, as far as I remember, with the Hungarian Government; in fact I never had any.

Q. You never had any? A. No.

Q. Do you remember what the trouble was with the Hungarian Government? Do you remember that an attempt was made to pool the traffic, with the aid of the Hungarian Government, by the Cunard Line?

The objection is renewed.

*Joseph Bruce Ismay*

3097

A. No. All I know is that the Cunard Line made a contract with the Hungarian Government. What the terms of that contract are I do not know.

Q. May I see if this refreshes your recollection with regard to that. I will show you the letter of March 31st, 1909. (Minute No. 13 indicated to witness.)

A. No, I do not remember that at all. (Petitioner's Exhibit 709 handed to witness.)

Q. At any rate, as appears by that letter, the Cunard Line was not able to make an agreement with the Hungarian Government with regard to that pooling contract? A. Yes.

Q. Are you familiar, Mr. Ismay, with the matter of the allowances by railroads to the various steamship lines? A. I am not.

3098

Mr. Crim: When was the first conference or pooling arrangement entered into with respect to third-class traffic between the British Isles and America? A. 5th February, 1880.

Q. Can you tell us what traffic it referred to in particular? A. No, I cannot. I do not remember the pool in 1880.

Q. Do you remember what lines were parties to that? A. I do not.

Q. Was it a failure? A. I really do not remember the pool at all. It is a good long time ago. It is thirty-two years ago.

3099

Q. Can you tell us what factors brought about the pool, or conference, that is now in operation on third-class traffic? It appears from the record that there was a pooling agreement between certain German Lines from the Continent called the N. D. L. V.? A. That was amongst themselves.

Q. Yes. They, at a later date, apportioned a certain amount of their traffic to the British Isles? A. That is true.



*Joseph Bruce Ismay*

3100

Q. Of which your line was one? A. Yes. But you are going back to the time when the White Star Line was a White Star Line Company of its own.

Q. At that time the White Star Line was an independent separate line incorporated under the laws of Great Britain? A. That is so.

Q. What was its capital stock? A. £750,000.

Q. It was engaged in operating ships from British ports and certain Continental ports? A. No, from Great Britain to the United States.

3101 Q. Do you remember what other British lines were a party to this arrangement? There was an agreement of July 11th, 1893? A. That is the Scandinavian business—Finnish business. That is not Continental business.

Q. Let us see the date of it? A. 11th July, 1893. There is no question of pooling here. It is simply an agreement with regard to rates.

Q. It is an agreement establishing rates on that particular business? A. That is right; on Scandinavian and Finnish business.

Q. Is that one of the first rate agreements, or agreements of any nature, towards regulating rates, that the White Star Line was a party to? A. No; I should say not.

3102 Q. It appears from the record, Mr. Ismay, that in 1892 the N. D. L. V. was organized, and it operated in that same territory, did it not? They probably drove a large part of the traffic through the British Isles? A. No; they drove it through Hamburg. At that time we objected to the Continental lines taking the Scandinavian business, and we had a war of rates over it. I think we put our rate down to £2.

Q. Was that rate war previous to that agreement of July, 1893? Do you recall any arrangement with regard to that particular traffic with regard to that? A. No, I do not; but I have no doubt there was one. I

think I am right in saying that, but that we could have turned up for you and let us know.

Q. September, 1895, Exhibit X317. That was the first agreement in which all of the lines which were then operating were parties, was it not? A. Yes. This agreement was the result of the fight, because it says here the Continental lines, including the Scandinavian and Hansa lines, agree to withdraw altogether from the Scandinavian, Finnish and British trade business.

Q. The N. D. L. V. according to that agreement, guaranteed the British lines 6 per cent of the Continental business? A. That is so, which the British lines agree to accept; 6 per cent per annum.

3104

Q. There was a well-established clearinghouse for the pool in Liverpool? A. Yes, there must have been.

Q. If you will look it will refresh your recollection? A. Yes, there must have been.

Q. Another consideration of that arrangement was that the British lines should withdraw from the Italian business? A. I do not see that in this agreement.

Q. I think it is in it somewhere? A. Here it is (indicating), "That the British lines, with the exception of the Anchor Line, withdraw from the Italian west-bound business."

Q. Had the British lines been engaged in the Italian business previous to that time? A. Well, I take it they must have been otherwise I think they would not have had that clause in.

3105

Q. How did the White Star Line get in that business? Did it have sailings from the Mediterranean? A. No, I do not think we ever carried any Italian passengers in the White Star Line. I will tell you the reason why that was put in. If my memory serves me, during the time of the fight with the Continental line we arranged with the Cunard Line to bring passengers from Italy to Liverpool in three little steamers of theirs and we transhipped them in Liver-

*Joseph Bruce Ismay*

3106

pool here. We brought the Italians to Liverpool by the Cunard boats from the Mediterranean.

Q. Do you observe from that agreement that the British lines were apportioned six per cent of the Continental traffic? A. Yes.

Q. Now give me the agreement of September 10th. 1895? A. This is it (indicating). That is British business.

3107

Q. Now, that one of September 10th, 1895, was an agreement between the British lines apportioning among themselves six per cent of the Continental traffic? A. No, I think you mean the agreement of 27th June, 1896. This is the one which is dividing up the six per cent between the British lines. That is the one you refer to.

Q. Yes? A. That is the one of the 27th June, 1896—no, it is not dated at all. This agreement is made between the British lines dividing up the six per cent of the Continental traffic which the Continental lines gave.

Q. Are you able to tell me whether the British lines at that time had an agreement with regard to British business; immigrants from Great Britain? A. Yes, they had. Here it is (indicating). That was simply a rate agreement, not a pooling agreement.

3108

Q. The next agreement that I want to call your attention to—? A. Exhibit 319. You have had that one. That is the rate agreement for British business. This is the agreement for the Scandinavian-Finnish business.

Q. The next agreement that I want to call your attention to is the agreement between the British lines and the Thingvalla Line with regard to Scandinavian and Finnish passenger business. Do you recall what became of the Thingvalla Line? A. I think it is now the Scandinavian-American Line.

Q. Absorbed by that line? A. I think the Scandinavian-American Line is a continuation of the old Thingvalla Line.

Q. What has become of the so-called Beaver Line that was then in existence, Mr. Ismay? A. The Beaver Line was bought by Elder, Dempster & Co. I think first, and was afterwards sold to the Canadian Pacific Railway.

Q. That is the line that the Canadian Pacific Railway is now operating? A. Yes. Of course they have added a lot of new tonnage to it, but that was the first time the Canadian Pacific Railway came into the steamship trade.

3110

Q. There was an agreement under date of June 15th, 1898. That is another agreement between the British Lines and the members of the N. D. L. V.? A. That is right.

Q. There is a re-adjustment? A. Of the percentage, I think.

Q. Of the whole of the arrangement of 1892? A. It is really a continuation of the old agreement. It is a continuation of this 6 per cent.

Q. I observe here the Scand. and Hansa Lines? A. Those are two lines which were started by the Hamburg-American Packet Company at the time of the fight to take passengers direct from Norway and Sweden to New York.

3111

Q. This agreement then was to bring about peace after that old agreement of 1892 had fallen through? A. "This agreement, subject to the operation of Clauses 3 and 4, shall operate for three years." This is a continuation of the 1895 agreement. This agreement was made to run to the 1st March, 1900, subject to three months' notice.

Q. You will observe, under date June 15th, 1898, the British lines entered into a new agreement with the Thingvalla Line? A. What year?

3112

*Joseph Bruce Ismay*

Q. 1898? A. The Thingvalla Line is not in this. This is an agreement for Continental business.

Q. Well, in any event it was March 15th, 1902, that the first arrangement was made with respect to the first cabin business east and westbound? (Agreement produced to witness.) That was the first agreement with respect to the first-class business? A. There must be one previous to this, I think.

3113

Q. How long was the one of 1896 in existence? Do you recall how it became inoperative? The agreement of March 15th, 1902, was apparently amended on September 5th, 1902? (Agreement H.) A. That is an agreement on the tickets. That is not a rate agreement.

Q. Was that the beginning of the practice of interchanging tickets? A. Yes.

Q. Is that practice still in effect? A. Yes.

Q. In substantially the same form as indicated there; in the same manner as indicated there? A. The Cunard Company have since joined the Agreement H.

Q. Now, L. I call your attention to the agreement there with respect to the Italian and Oriental business? A. Yes.

3114

Q. Do you recall the circumstances that brought about that agreement between the so-called N. D. L. V Lines, the French and American Lines? A. What is the date of that.

Q. January 1st, 1904? A. No, I cannot remember that the French and American lines were interested in this business.

Q. Then it appears until this time, or immediately previous to this arrangement, the French-American Line had not been parties to a conference with respect to this traffic? A. The French and American Lines; not the French-American Line.

Q. This agreement had for its purpose the regulation of that competition? A. That is so.

*Joseph Bruce Ismay*

3115

Q. Now, I show you Agreement M. Do you recollect operating under that agreement? A. Yes, I remember operating under that agreement.

Q. Agreement of February the 26th, 1904. What was the purpose of that agreement, Mr. Ismay? A. I do not remember this at all.

Q. It appears that certain lines were contributing to establish a direct service to Scandinavian ports? A. This apparently was a service of Continental lines against the Cunard Co. The Cunard Co. established a service from Fiume in the Mediterranean, and this was a retaliatory measure on the part of the Continental lines to the action of the Cunard Line in Fiume, but only about three steamers were run under this agreement.

3116

Q. This agreement was not in operation but for a short time? A. That is right.

Q. Now Agreement J? A. That is an agreement of the C. P. R. and the N. D. L. V.

Q. When was it that the Canadian Pacific Co. began the steamship business? A. I do not know the year, but it was when they purchased the old Beaver Line ships.

Q. And can you tell me whether that agreement is still in effect or not with regard to the continental business? A. Yes, I believe it is, and it expires at the end of this year, I think. It runs from year to year.

3117

Q. Is it your understanding that since that agreement has been in existence the Canadian Pacific Co. has stayed out of the continental traffic to the extent of the agreement? A. Yes.

Q. They have operated under the terms of that agreement? A. Yes. They are substantially working under this agreement so far as I know.

Q. Now Agreement G, March the 9th, 1904? A. Yes, I have it here.

3118

*Joseph Bruce Ismay*

Q. Is that agreement still in effect? A. I have no knowledge of this contract because it is the N. D. L. V., and the Campagnie Generale Transatlantique.

Q. You know there is some arrangement with respect to that line? A. Yes, I understand there is.

Q. Now L., January the 1st, 1905. Is that agreement in effect? A. I really cannot speak in regard to that. We are not parties to it. They have an agreement and possibly it has been amended, but what it is I do not know.

3119 Q. Now, January the 14th, 1905? A. Yes, I have got that one. That is an agreement between the British lines for third-class passengers.

Q. How long was that agreement in operation? A. That agreement has been in operation with certain amendments with regard to rates with possible intervals until the present day. It is determinable in three years. It was made for three years and subject thereafter to six months' notice.

Q. Is it your opinion that it is in effect today or substantially the same agreement is in effect today? A. With certain amendments with regard to the rates it is practically in effect today, but the rates have been amended.

3120 Q. Now, there was on January the 21st, 1905, a modus of rates? A. Yes, the Scandinavian third-class business, and agreement for the Scandinavian business.

Q. Is that agreement in operation? A. Yes, I believe it is, subject to amendment, because other large steamers have come out which are not rated here.

Q. Now, then, January the 21st, 1905? A. The same answer would apply to that.

Q. The British and Scandinavian Lines gave notice to agents with regard to Finnish business, and was that notice pursuant to some agreement or arrangement with regard to the Finnish business? A. Well, the

Scandinavian agreement is always made first, and then the Finnish agreement goes with it.

Q. And this notice is pursuant to the same agreement? A. Having made the Scandinavian agreement we send that notice out.

Q. Now, Agreement Z. Have you Agreement Z. before you, Mr. Ismay? A. Yes.

Q. Is that arrangement in effect today? A. Still in force, but the percentage is altered.

Q. Do these three lines, the Allan, the Dominion and Donaldson's receive more or less? A. The Allan and Donaldson's both get more. I am satisfied that the Allan get more and Donaldson's get a little bit more. The Dominion has not been increased. The Allan and Donaldson's lines have got an increased percentage.

3122

Q. Now W? A. That is an agreement with regard to second-class passengers.

Q. Is that agreement in effect today? A. Yes, I should say it is in effect today, but the rates have been altered.

Q. With the exception of the alteration in rates it is in effect today? A. Yes, with the exception of the alteration in rates it is in effect today.

Q. Now V? A. Yes, I have V.

Q. Is V in effect today? A. Yes, with the same exceptions. Alterations have been made in the rates, and other ships have been included in the agreement.

3123

Q. In these agreements with respect to first and second-class rates, who established the rates, Mr. Ismay? A. It was established at a meeting of the representatives of the various steamship companies, and a very difficult job it is too.

Q. Now BB? A. I have it here.

Q. Is that in effect today? A. Yes, it is in effect today with certain amendments.



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3124

Q. Do you recall briefly what the amendments are?

A. I do not know. I have never been present, but I am told that we doubled the percentage.

Q. In other respects it is in effect today? A. Yes, we doubled the percentage to the Russian East Asiatic Co., east and west, otherwise it is the same.

Q. February the 20th, 1908, is that agreement in effect? A. Yes, with the amendments and alterations in the rates.

Q. And those amendments refer to the increase or decrease in the rates, do they? A. I fancy practically entirely.

3125

Q. Now, May the 23rd, 1908? That is British business third-class? A. The agreement I have here is the 20th of February 1908—yes, here it is.

Q. Is that agreement in effect today? A. Yes, I do not know whether the rates have been modified here again or not—yes, the agreement is in effect with probably some change in the rates.

Q. Now, there is another agreement of the same date with the Canadian Northern Steamship Co.? A. That is August the 15th, 1910, an agreement with the Canadian Northern Steamship Co.

3126

Q. In any event there is an agreement between the Conference lines and the Canadian Northern Steamship Co. with regard to the rates of the third-class passengers? A. Yes, there is.

Q. Well, that is all I want if you say there is an agreement? A. It is referred to here "The Royal Line became parties to an agreement for British third-class business as revised," etc. That has since been revised, that agreement.

Q. Do you recall to what extent it has been revised? A. I think the rates have been increased.

Q. Now, Special Agreement B., October the 1st, 1908? A. Yes, that is the one.

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3127

Q. Is that agreement in effect today? A. Yes, that agreement is running with certain amendments.

Q. Do you recall what those amendments are? A. The Fabre Line are not parties to it now.

Q. What has become of the Fabre Line? A. They are still running.

Q. Are they in active competition or maintaining the same rates without clearing through the pool? A. They have reduced their rates. They are conducting an active competition at the present moment.

Q. Now then, February the 8th, 1909, that is a special agreement between the Italian lines etc. Is that agreement in effect today? A. Yes, with certain amendments again.

3128

Q. Now, agreement of June the 1st, 1909? Is this Mediterranean agreement now in effect? A. Yes, with certain alterations in the percentage. The Fabre Line has come out, and the percentages have been re-adjusted. The Italian lines get a bigger percentage.

Q. This agreement is marked "Mediterranean Steerage Passage Agreement, February 8th, 1909." Now, August the 15th, 1910, that is a revision of the agreement of May the 23rd, 1908? A. Yes, that is quite possible.

Q. That agreement is in effect today, I presume? A. It is the same one as you referred to before, and which was revised in 1910, and is still going on with further additions.

3129

Q. Now, Mr. Ismay, when did the White Star Line become an integral part of the so-called International Mercantile Marine? A. In 1902, I think it was.

Q. Was the White Star Line sold for cash, or was there an exchange of stock when that consolidation was brought about? A. They got some cash and a certain amount of preference and ordinary shares in the International Mercantile Marine Co.

*Joseph Bruce Ismay*

3130

Q. What is Mr. Smith's identification? A. He is Secretary of the North Atlantic Passenger Conference in Liverpool.

Q. And what are his duties here? A. He acts as the medium between all the British lines and the Scandinavian and the American lines. All communications pass between him. He is secretary for the British lines, and not for the Continental lines.

Q. During the period since the so-called N. D. L. V. was organized, there have been times when the steamship lines have been absolutely separate and independent and in active competition, have there not? A.

3131 Yes.

Q. And during those periods when the pools or conferences were suspended what was the result upon the traffic and rates? A. When we were fighting we had the ridiculously low rate of £2.

Q. Rates have been as low as £2? A. I think £2 is 'the lowest rate we ever quoted, and gave 15 shillings' commission, so that the ship got a net rate of 25 shillings.

Q. Would you say that but for the conferences and pools now in existence the rates would be much less? Would you be fighting each other? A. I think we have more sense now than we had a few years ago. I do not think we should be fighting now.

3132

Q. You have no objection to Mr. Cauty giving us any information he can? A. Absolutely none. Mr. Cauty is entirely at your disposal and you will get far more information from him than I have been able to give.

Q. He is the detail man in your office, is he not? A. He is the man who knows more about the passenger business and the working and the ramifications of it than anybody in the office.

Q. You have general knowledge of your office and you rely upon Mr. Cauty to work out the details? A. I do.

*Arthur Belcher Cauty*

3133

Q. And you came here this morning in obedience to a subpoena served upon you? A. I did.

Q. I cannot think of anything further I want to ask you, Mr. Ismay, and my associate Mr. Guiler tells me that he does not at the moment think of anything, and if anything vital does come to our minds we will reserve the right to ask you informally? A. All right, sir.

Q. And I want to express to you my appreciation and the appreciation of the Government for the candour with which you have given us this information?

A. Thank you very much.

3134

Mr. Guiler: I think we ought to put on the record the request for papers having been made. (To Mr. Beecher): Have you got them?

Mr. Beecher: I have not. You can get them at any time.

(Adjournment until Wednesday, September 4th, at 10 o'clock, at the North Western Hotel.)

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Second Day

3135

North-Western Hotel, Liverpool, England.

Wednesday, September 4th, 1912.

Appearances as before.

ARTHUR BELCHER CAUTY, sworn on behalf of the Petitioners testified as follows:

Note:—It is hereby stipulated for the purpose of examining Mr. Cauty that he shall receive all the privileges and immunities of the so-called Sherman Anti-Trust Act to regulate

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*Arthur Belcher Cauty*

Conferences as if he had been placed under subpoena in the United States, and had appeared in pursuance thereof and had testified under oath in the Southern District of New York.

By Mr. Guiler:

Q. What is your full name, Mr. Cauty? A. Arthur Belcher Cauty.

Q. Where do you live, Mr. Cauty? A. At Wallasey—say Liverpool. Wallasey is a suburb of Liverpool.

3137 Q. You are in the steamship business? A. I am.

Q. In what lines have you been during your experience? A. I was with the Inman Line, I joined the Inman Line in 1886, which subsequently became the American Line. I joined the White Star Line in 1889.

Q. And you have been with the White Star Line ever since? A. Yes.

Q. And also with the International Mercantile Marine since it started? A. I have.

Q. How long has the International Mercantile Marine been going on? A. Since 1902, I think.

3138 Q. Roughly speaking, you have been in the steamship business for the greater part of your life? A. All my business life, yes.

Q. And you are a thoroughly practical steamship man? A. I think I know something about it.

Q. Now in your experience as a steamship man, you have taken part in various conferences, so-called conferences, made both here and elsewhere, have you not? A. I have.

Q. In general where have you held those meetings? A. At a great many places; Liverpool, London, Paris, Brussels, Cologne.

Q. Have you ever attended any of the meetings in New York? A. No.

Q. You have not attended those conference meetings? A. No, I have never attended a conference meeting in New York.

Q. There is, I understand, a conference called the Atlantic Conference at New York, is there not? A. It is called the New York Conference, the Atlantic Conference, yes.

Q. And the agent up to a few months ago was Mr. Sandford, the Secretary of the conference? A. Yes, he left in April I think.

Q. That is a branch, as I understand it, of the Atlantic Conference, or so-called North Atlantic Conference? A. Yes.

3140

Q. Will you state, Mr. Cauty, what difference and distinction there is between the conference and the pool? A. The conference is a meeting of the steamship interests either in this country or on the other side for the conduct of the business in accordance with the conditions that were then in existence.

Q. And what is the pool with reference to the conference? A. Well, a pool is a specific condition that is agreed between steamship managers, and which the conference will then carry out. For instance every agreement has more or less different conditions, and when an agreement is made among the steamship companies the conference carries out that agreement or acts in conformity with it.

3141

Q. A pool you would say is merely an agreement which the conference has drawn up previously? A. Yes.

Q. And which the conference carries out? A. Yes, which the conference carries out.

Q. In general can you tell us what the business of the conference is? A. In general it is to attend to the working of such agreements as may be in force, to act as a medium of communication between the lines and to do whatever may be necessary to assist in the proper carrying out of the business in the general interest.

3142

*Arthur Belcher Cauty*

Q. In general then, it is to carry out any of the agreements which have been previously made, and to disseminate information in regard to the agreements and matters of general pool interest? A. Yes.

By Mr. Crim:

Q. Mr. Cauty, a conference is a more or less informal association of steamship interests which take up matters of general interest to the business? A. Yes.

3143

Q. And the pool is a formal obligation entered into, usually by a specific agreement? A. I quite agree, I quite agree.

By Mr. Guiler:

Q. And taking Mr. Peters of Jena, it is his business, is it not, to advise members of the conference who are also members of the various agreements which have been drawn up with the conference, of any outside competition as soon as it arises and in regard to whether such competition is serious or not? Is that right? A. No, I do not think that is quite correct.

3144

Q. Will you explain then? A. Mr. Peters merely acts as secretary and medium between the lines. We should expect to get far more reliable information on a question of that kind from the particular company who was most affected by such competition.

Q. The principal company most affected by the competition advises Mr. Peters in regard to it, and Mr. Peters by means of circular letters advises the various members of the conference, is that so? A. Yes. He would pass on word for word the letter he receives. He would not change it into his own words. He merely acts as a medium for the dissemination of that information.

Q. And the reason for that is that the various members of the conference may in joint session or otherwise take such action as they deem fit in regard to meeting such competition? A. Yes, that is quite right.

Q. Now I show you, for instance, Petitioner's Exhibit No. 705, which is the minutes of the meeting held at the Savoy Hotel, London, on May the 25th, 1908, and ask you if these are the minutes of a meeting held to meet the competition of the North West Transport Company, the Russian Volunteer Fleet, and the Russian East Asiatic Company?

Mr. Beecher: I object to the form of the question, Mr. Guiler. That is simply the way you characterize a copy of the minutes of that meeting. If you want to ask what that meeting was held for, it was a general meeting at which that subject among others was discussed. 3146

Mr. Guiler: Is that any different from what I said?

The Witness: You say the meeting was held to consider this competition. Of course, that was one of the questions considered.

By Mr. Guiler:

Q. Will you state, Mr. Cauty, what was the object of that meeting? A. I cannot say without I see the minutes. It was so long ago. That was the first one. (Witness looked at the minutes). Minute 2 was to deal with the question of compensation of the White Star Line, the passengers they booked from Pretoria, April the 14th. 3147

Q. That was part of the competition measure? A. Minute No. 5 however, refers to the form of the promissory note to be given under the pool which has nothing whatever to do with competition.



*Arthur Belcher Cauty*

3148

Q. The chief object of that meeting was to take up the question, the particular question, of the competition of the North West Transport Company and the various lines mentioned, is that so? A. I should say it was one of the questions, yes. We distinctly admit that. There are altogether a number of minutes which do not deal with the question of competition at all.

Q. You attended that meeting did you not, Mr. Cauty? A. Yes, I did.

3149

Q. Do you remember who brought up the question of the use of fighting ships to meet the competition of the Volunteer Fleet, the Russian East Asiatic Co. and the New York Continental Lines in the east bound business? A. I cannot remember who originated the suggestion. The matter was one of general discussion. Perhaps we were a little unfortunate in the term we used "fighting ships," because after all they have never taken on the character of fighting ships.

Q. That was the common name for them in the correspondence? A. I agree. I do not think we contemplated having to justify the term.

Mr. Crim: They never carried any guns.

3150

The Witness: No, and they never thrust back. We were supposed to have given something back, and in the conduct of these fighting ships we have not taken up an aggressive attitude which the term would suggest was intended when that minute was passed.

Q. The way you carried it out was according to the minutes No. 22 of this meeting—for instance you had a provision here for compensation of the various steamers which were to sail about the same day, or approximately the same day, as the steamers of the opposing lines, did you not? A. Quite true.

Q. Will you explain to me how that compensation was worked out, that is in regard to the question of compensation that is here stated, compensation was

not to be based on more than 30 dollars rate and was not to be more than 12 dollars below that rate. Can you explain to me what was the idea there? A. I can. In the first instance when this subject was discussed and the question of compensation was agreed to, it was felt that because this outside company was running ships at a very much lower rate than the conference lines—and on that account the conference felt compelled to have at least one ship sailing the same day at about the same rate—the line to whom that ship belonged should not be the sole sufferer through having to reduce its rate to the level of this outside competition, and the other lines said “Well, we will agree that when a company in accordance with this scheme has a steamer which is appointed to sail under this clause as a competing steamer and in consequence has to reduce its rate, the conference will reimburse that line,” but we did not want to leave the amount indefinite, and it was the subject of much discussion as to what the normal rate should be considered, as for instance, while we were discussing this agreement the normal rates might have been 30, 32 or 33 dollars, in the course of three or four months’ time this normal rate might have varied, and we could not foresee it, and to protect ourselves in respect of the amount of compensation we would have to pay, it was agreed that we should look on 30 dollars as the normal rate.

3152

3153

Q. That is a rate on which you would start to pay compensation? A. Yes.

Q. Is not that the condition? A. That a line could not say our rate was 35 dollars, because it was laid down that 30 dollars was to be the rate on which the compensation was to be calculated.

Q. Worked out in this way that supposing you had a rate of 35 dollars and reduced that rate 10 dollars you would only get five dollars compensation. If you had a 30 dollars rate, and you reduced it ten dollars

*Arthur Belcher Cauty*

3154

you would get ten dollars? A. Which was reducing 30 dollars under reasonable consequence then the compensation was fixed at a maximum of 12 dollars, having in mind that we did not think in working out that scheme it would ever be necessary to go lower than 18 dollars.

Q. Were you ever required to go below eighteen dollars in this competition? A. No, I do not think we have ever been near as low. Our usual rate, speaking off the book, has been somewhere between twenty-one and twenty-three dollars.

3155

Q. At times—as I remember I have a thing in mind just now. You had a rate of twenty-two dollars with two dollars commission? A. We may have had, but I do not think such a low rate has run for any length of time.

Q. Special sailings? A. Within the last few months it has been twenty-five dollars less two dollars—twenty-three dollars. I know we have been lower than that, but not much. The opposition have always been down to a nineteen dollar rate. They have always been below us.

Q. You brought their rate down to yours. Did not you? A. No, we have very seldom been as low as that. We have during certain periods been as low.

3156

Q. When I say you, I refer not only to your line? A. I am speaking of the conference. We certainly have charged an equal net rate to the opposition some years for certain periods but I think if you were to look over the whole periods during which these fighting steamers have been in operation you would find, more often than not, our rate has been a shade higher.

Q. According to this minute which we shall term, and which is termed twenty-two, this business of the opposition steamers was to be carried out by the New York Conference on the eastbound business? A. Yes.

Q. Did you ever have the same opposition steamers on the westbound business? A. Never.

Q. It was carried out by the so-called small committee in New York, was not it? A. Yes.

Q. The small committee at New York Conference?

Mr. Beecher: Up to a certain period.

Mr. Guiler: We are getting a general statement.

Mr. Beecher: You make it too general. You ought to put some limit to make it clear.

The Witness: We might say it was carried out in the first part of the period by the New York committee, subsequently by a committee appointed on this side.

3158

By Mr. Guiler:

Q. But a committee on this side advised the New York committee what they should do? A. No, sir.

Q. The committee on this side communicate with the line whose steamer is appointed the competing steamer? A. Yes.

Q. Roughly speaking the New York Act was 1908-9—part of 1908-9? A. You have got it in the exhibits. I forget the date, but I think you are correct.

Q. It was appointed some time in 1908, and was dropped for a while, and was revived September, 1909? A. For a time that minute was entirely suspended.

Q. So I understand. Under this minute 22, however you had power—the conference had power if it wished to sail the competing vessel or steamer at a lower rate, could it not, than the opposition—any other steamer? A. Yes, it was quite correct, but it was never exercised.

3159

Q. Under minute 22, Mr. Cauty, you could give an extra commission, that is give a higher commission than two dollars to the agent. Could you not? A. I do not think we could. May I look at that?

Q. Certainly. (Petitioner's Exhibit, Minute 22, handed to witness.) A. That has been a very disputed point. No, sir.

*Arthur Belcher Cauty*

3160

Q. And you remember that there was at one time a direction by Mr. Peters to Secretary Sandford in New York, giving him power to allow an extra commission if he wished, if it was necessary to meet the opposition? A. I can say, yes. I think that was agreed to by subsequent correspondence, it was not covered in the original agreement. It is probably in those papers which I sent to you yesterday.

Q. I will show you Peter's circular letter 585 (document shown to the witness?) A. Yes, that is correct.

3161 Q. That is circular letter 585, and that refreshes your memory, does not it? A. Yes.

Q. So that you can say that the committee in New York were allowed if they wished to give a higher commission than the ordinary commission of two dollars to agents for securing business against the opposition steamers? A. Yes, during a certain period and that limited—a certain limited period.

Q. I do not mean to say it was general but just once in a way? A. It is not being done now.

3162 Q. The ordinary way of doing that was not to increase the commission of two dollars but to reduce the rate? A. That is quite correct. We had to face the position that the opposition steamers were quoting large commissions, trying to buy their business in that way from the agents. The conference preferred to try and quote a rate which would give us much about the same net rate, but would give the passenger the proper rate that such net rate would represent with the ordinary commission to the agent.

Q. That is to say, as near as possible to the rate of the competing steamer? A. Yes, but we did not want to give these excessive agents' commissions, we preferred to make our gross rate less than our usual rate, the net rate being approximate to that of the opposition people. The opposition were quoting very high commission we had reason to believe.

Q. In paying the compensation provided for by Section 1 of Minute 22 each one of the lines contributed a certain proportion in accordance with its proportion under Agreement AA? A. Quite so.

Q. The proportion of the loss to the line? A. What we call our percentages under Agreement AA.

Q. Will you explain that to me more fully? A. The Agreement AA gives each line that is party to that agreement a certain percentage in the East Asiatic business. In addition to the lines which were party to Agreement AA, one or two other lines agreed to share in this compensation, and Secretary Peters worked out the exact percentage that each line would have to pay, based upon their fixed percentages under this agreement and the subsidiary agreement. 2164

Q. So that supposing there was a reduction of six dollars in the rate of the Russian East Asiatic Line, and the compensation was 2,000 dollars to the line—if the difference by reduction of rate was 2,000 dollars—the various lines in the conference made that up to that particular line? A. And that line itself helped to make it up. It bore its own shares you understand.

Q. Yes? A. The percentages were brought out and they would have written against their name their own share of this 2,000 dollars.

Q. Now, what was Rule 9 of the Conference regulations for agents? A. In America? 3165

Q. Yes? A. It prohibited agents booking for other than conference lines.

Q. That rule was enforced in the United States, was it not, as a fighting measure? A. No, sir. I do not think it is quite correct to put it in that way.

Q. Put it in your own way? A. I think it is one of the measures which of course are necessary when you have outside competition to meet, but it is a rule which has been enforced, as far as I can remember, since we have had any organization at all dealing with

agents, and on that account it would not be quite right to associate it in our minds as a measure that was specially adopted.

Q. I do not mean to say it was specially adopted but it was put in force against the opposition steamers as a measure to meet their competition? A. Yes. This rule for agents which prohibited agents booking for outside competing lines naturally cannot be put in force when there is no outside competing line; it can only be put in force when there is one.

3167 Q. That is true? A. But as I said, as a matter of fact, it was enforced at that time. As a matter of fact it was.

Q. In 1908 and 1909? A. Yes.

Q. Against agents who, while representing conference lines, did represent the outside lines? A. Yes, as far as we were able to we put it into force.

Q. And the way that was worked out was that the agents were either disqualified or fined by the conference for representing outside lines? A. Yes, for giving business to outside lines.

3168 Q. For giving business to outside lines, and in certain cases for giving information to outside lines in regard to conference matters? A. I never came upon a case in which an agent has been disciplined for giving information.

Q. Do not you remember the case of a certain agent of some of the Italian lines, who was disciplined in that way? A. For giving information only?

Q. Yes? A. No; I do not remember it. I am not prepared to contradict you if you have got it in your statement but I do not remember such a case.

Q. You do not remember it yourself? A. No, I do not remember any such case. It seems to me we have so much difficulty in arriving at any decision for disciplining agents anyhow that I cannot conceive any decision was ever come to for either punishing or fining an agent for giving information.

Q. I had a case in mind but I do not recall it just now? A. I really do not remember any.

Q. Do you remember the case of a man named Clausenius of Chicago, who represented the Northwest Transport Line and also represented some of the conference lines? A. I do not remember his case.

Q. Do you know the case of a man named Schiavone, both of whom were fined heavily? A. No. The handling of agencies goes into a great deal of detail. While we deal with agents on this side of the Atlantic we leave our New York agents to deal with agents on that side of the Atlantic.

Q. That was left to the Chicago committee? A. Yes, that would be left to the Chicago committee.

3170

Q. The Chicago complaint committee. You, however, on this side dealt with your agents in a similar manner? A. Exactly, just the same thing.

Q. Yes. The vessels of the White Star Line have been from time to time used as fighting steamers, have they not? A. Yes, they have.

Q. I show you Petitioner's Exhibit 172 and ask if that recalls to your memory the case of the "Laurentic" sailing as a reduced rate steamer or as a fighting steamer? A. I do not remember the individual case, but I have no doubt that was a fighting rate.

Q. Yes. It states that there, does it not; that that was reduced for that sailing only? A. "This steamer sailing only." I quite agree with that.

3171

Q. The "Laurentic" belongs to your line? A. Yes, she is one of our steamers.

Q. Now you recall, Mr. Cauty, that the question of control stations on the boundary line between Russian, Servia, Savony and Germany was a very live one between the German lines and the English lines? A. Yes, I do.

Q. What was the trouble in regard to those control stations that the English lines or their passengers



3172

had, while passing over the control stations? A. Well, the English lines felt at one period that their passengers were apt to meet with considerable difficulty in getting through the control stations, and having got through the control stations the English lines, or certain of them, felt aggrieved that the passengers had then to be directed either to Hamburg or Bremen.

3173

Q. Hamburg and Bremen were sailing ports for the Hamburg-American Line and the Nord Deutscher Lloyd? A. The Hamburg-American Line and the Nord Deutscher Lloyd. We felt we were getting our passengers rather too near the home ports of some of our strongest competitors.

Q. By the way, first of all, before we get to that, who were in charge of the control stations at these various places such as Eydtkuhnen? A. Well, I do not know the names of the control stations.

3174

Q. Ottloschin and Illowo and others on the Russian frontier? A. The control stations originated from a desire of the German government to exercise a control over third-class passengers coming into Germany and passing through Germany, just the same as the United States government exercised a control over emigrants coming into their country; and other countries also control the amount of third-class passengers, either leaving or arriving in their respective countries. The German government in establishing these control stations did so through the two German lines, the Hamburg-American and the N. D. L. V.

Q. And is it not so, Mr. Cauty, that the agent of the Hamburg-American and the Nord Deutscher Lloyd were the ones who were in charge of those stations? A. The Hamburg-American and the Nord Deutscher Lloyd have the working of those control stations under their charge.

Q. I show you Petitioner's Exhibit 50, which is a letter from the Hamburg-American Line to the Ham-

burg-American Line in New York, and ask you if that refreshes your memory in regard to the Hamburg American Line being in charge of the various control stations and having their agents there? A. This is the Holland-American Line.

Q. The Hamburg-American Line runs to Holland? A. No, they are two different countries. The Holland-American Line is the Rotterdam Company.

Q. Yes, of course, but the Holland-American Line according to their letter—? A. Have been permitted to appoint agents at these control stations exactly as the managers at the control stations, not as agents for us.

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Q. And they were in charge of it? A. They were in charge of it. The regulation that the German government have made with respect to emigrants requires that when an emigrant for a British company enters the German territory through a control station he must be directed to Hamburg or Bremen. The British companies tried very hard to get that regulation varied so as to permit an emigrant coming in through a control station to pass through Germany, Rotterdam or Antwerp, but we have not succeeded. At present we find no difficulty in getting our passengers through Germany. Our German line friends handle them for us, and forward them by channel steamers from either Bremen or Hamburg as the case may be.

3177

Q. And previous to that time however many of the English passengers or English line passengers were turned back? A. In the early days we all felt very sore about it. We did not think that our passengers were being handled at all properly.

Q. Was that during the time of the competition, before the agreement of 1908? A. I really forget for the moment when these control stations were established. It was a question quite foreign to this fighting method we have been discussing.

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Q. I want to inquire about it and to learn what I can. I want to know the fact as to when you had the most trouble in regard to the control stations, whether previous to the agreement of 1908, or after, or when it was. I am not trying to catch you, Mr. Cauty?

A. I am trying to think when they were established. That is the trouble. I can tell you frankly that it was in the early days that we had the most trouble, and that for the last year or two it has been all right and everything has gone quite smoothly. It was in the early days that we had the trouble.

3179

Q. And you had many complaints to make, had you not, to the German lines in regard to these control stations from time to time? A. We had in those early days.

Q. And Mr. Ballin of the Hamburg-American Line was the one who was assuring you that everything would be all right? A. Every time we brought it up we found some assurances. We were very persistent.

Q. For several years he assured you that everything would be all right? A. That is so. He did.

Q. And it did not come all right until later? A. No.

3180

Q. Now, I show you the minutes of a meeting a presumed meeting, held on February the 25th, 1908, at Liverpool, of the North Atlantic Conference, and ask you, even if this matter had not gone to such an extent, this matter of the control stations had not troubled you so much, you attempted to get a by-law passed to Agreement AA to the effect that the English lines would have no further trouble at the control stations? (The minutes in question were shown to the witness.) A. Yes, that is quite true. That confirms the answer I gave that it was in those early days that we had the trouble.

Q. When was that? A. Since 1908, since February, 1908.

Q. Since February, 1908, you have not experienced much trouble? A. It has gradually disappeared, I think perhaps some of the other lines have felt themselves more aggrieved over it than we have about it.

By Mr. Crim:

Q. This adjustment with the British lines made with regard to the control stations was made by paying a small fee, was it not? A. Well, I think that came up as far as the question was concerned. The German lines explained to us that there were certain expenses with regard to disinfecting the passengers, and taking care of the passengers and my recollection is that we gave the control station agent a commission on the passengers he booked through, and a small fee on prepaid passengers.

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Q. And that adjustment was made somewhere about May the 23rd, 1908? A. Yes, that is so.

By Mr. Guiler:

Q. Now, Mr. Cauty, I will show you also a minute, No. 475 of the North Atlantic Steamship Lines combines and ask you whether that refreshes your memory as to whether the Red Star Line contributed equally with the Holland-American Line to the expenses of the control stations? A. Well, I am sorry to say that I cannot give you any information about that. I am not acquainted with the arrangements made between the Continental lines.

3183

Q. You do not know the Red Star business? A. No, we do not, but I should say that minute is correct.

Q. This minute shows that the Red Star Line did contribute to the expenses of the control station? A. I should say that is so, but from my own knowledge I cannot say so.

Q. Minute 475 is as follows: "For the contribution of the Holland-American Line and the Red Star Line

3184

to the expenses of control stations there shall be taken into account on the one hand, interests on the invested capital, charges, repairs, and other expenses, on the other hand the receipts; the extent of the interests and of the charges are reserved for further agreement." I show you also the minutes of the meeting of the North Atlantic Conference held at Liverpool on the 8th of December, 1908, numbered 386, Section 14, thereof, which reads as follows: "14. Control stations, agents charging 15/—commission on British lines, British passengers accompanying prepaids, see notice 378—14. The secretary to write Secretary Peters that

3185 British lines are unable to pay 15/—commission to control station agents, but pay 15/—commission to their agents at Continental ports. They are willing, however, to pay the usual commission, about two marks, to control station agents for their trouble in handling the passengers." Does that refresh your memory, Mr. Cauty, as to also paying for the expenses of the control stations? A. I think it is part of that same question we referred to. Yes, I quite agree with that, and it is part of the same question already referred to, where we recognized there were certain expenses connected with our passengers at control stations which we felt it was only right we should meet.

3186

Q. And for some time then you have experienced no difficulty in private control stations? A. No.

Q. Now I understand, Mr. Cauty, that the steamship lines, parties to the conference, which we have been speaking of, are allowed a certain commission, a commercial allowance by the various railway companies belonging to the Western Passenger Association, Central Passenger Association, and other associations in the United States? A. So I understand, but I am afraid that I shall be able to give you very little information about the railway situation in America. That is one of those details that we leave more or less in the hands of our representatives.

Q. Representatives over there? A. Yes, but I do know we get a commercial allowance and I have read the minutes of certain meetings, I think, which took place at which that was agreed to, but having felt the matter was adjusted and put on a basis more or less satisfactory I have really not bothered to take any notice of it.

Q. You know there is a main factor for business? A. Yes.

Q. For which steamship lines originated other railway companies in the United States? A. Yes.

Q. And that is generally true throughout the United States? A. I understand it is.

2188

Q. Did you—you said you did not attend any meetings in the United States? A. No, I have never attended a conference meeting.

Q. You did not attend the meeting of the Western Passenger Association with the Transatlantic Passage Conference held at New York on November 10th, 1909? A. No.

Q. You know however that the European agents of the various conference lines are allowed to sell inland American transportation only through the agency of the steamship lines. Is that so? A. That is generally correct.

Q. They use the steamship lines? A. That is generally correct, but it is not an absolute rule. There are exceptions.

3189

Q. I shall show you a minute or rather a resolution No. 416 of the North Atlantic Steamship Combine and ask you if that is to the best of your recollection as to that (Petitioner's Exhibit 416 handed in)? A. That is a very general rule.

Q. That statement in there has been followed out, has it not? A. Pretty generally. It has not absolutely. I think for instance the Canadian Pacific have not.

3190

*Arthur Belcher Cauty*

Q. That resolution I wish to read in the record. Have you any objection. Resolution 416, European agents and the body.

Mr. Beecher: Resolution 416. Will you describe it.

By Mr. Guiler:

3191

Q. Resolution 416: "European agents of the parties are allowed to sell American Inland Transportation only through the intervention of that party with whose ships the respective passengers are transported. Tickets for American Inland Transportation made out to other companies or persons are withdrawn by the parties and replaced by their own. The agent remains responsible for the amount to the party. Moreover he is subject to a fine of at least 400 marks." A. I would like to put on the record that that is a resolution to which we were not a party.

Q. You were not a party? A. None of the British lines were a party. It merely represents a somewhat similar rule that the British lines have among themselves.

Q. That probably is general among all the companies? A. Pretty well.

3192

Q. We produce, according to our arrangement, two volumes. On the outer page there is, "Minutes of Meetings of the North Atlantic Passenger Conference from 1904-1907. Minutes 368-374, Vol. 1." This is from the files of your office? A. Yes.

Q. And they were sent to you in due course by the secretary of the North Atlantic Passenger Conference? A. Yes.

Q. And your line is a party to that conference? A. Yes.

Q. It has been during the period of time covered by these minutes? A. Yes.

Q. Are they true reports of what occurred? Is what they purport to contain correct? A. They are not sworn copies of course but I have no reason to believe they are not correct.

Q. Sufficiently true for you to act upon? A. For our purposes.

Q. The second volume has the title "Minutes of meetings of the North Atlantic Passenger Conference, 1908-1911, Minutes 375-417, Vol. 2." I offer them in evidence.

Petitioner's Exhibits, Vol. 1, No. 710, Vol 2, No. 711.

3194

Q. Mr. Beecher has also produced certain letters from Mr. Peters or purporting to be from Mr. Peters during the years 1908 and 1909. These letters are marked "G. 5." Is that one of the index numbers to circulars sent out by Mr. Peters? A. Yes.

Q. What other filed letters or numbers does he send to you? A. I am afraid I could not answer that entirely. He sends us "M," for Mediterranean and "F" for Mediterranean freight.

Q. What is the significance of the letter "G"? A. I do not know what "G" means.

Q. It appears that a number of these letters bear no signature. They were, however, accepted by you as the official letters from Mr. Peters' office? A. I think he follows the usual practice of putting at the end "yours respectfully" does he not, almost always? 3195

Q. Yes, without any signature? A. That is so. You will find that almost everywhere.

Q. Those letters come in from you, and are filed as they now appear on that file in your office? A. Yes.

Q. Are you the personal custodian of such letters? A. No, they go down to the passenger department.

Q. Of the White Star Line? A. Of the White Star Line.



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3196

Q. Or of your firm? A. Well, of the White Star Line, the Dominion and the American Lines. The passenger departments of the three lines are conducted in the same office.

Q. Do you send for them when you need any information which you think they contain? A. Which they contain, yes.

Q. It appears, Mr. Cauty, that a great many of the letters from this file are missing. Do you know anything about those missing letters; where they are or in whose possession they are? A. No, I do not. They are probably in our possession and may have been filed away under different references.

3197

Q. I find that out of the 600 odd letters that more than 100 file numbers are not in this file? A. No, I could not explain that, excepting that some of them may be of very little importance. Others may have been filed away in connection with different subjects.

Q. I show you an agenda for a meeting in London, November 25th, 1909, No. 20, which refers to an increase for 1910 on third-class rates by 10/— G. 653? A. Yes.

Q. G. 653 is the file number of the letter that refers to that, is it not? A. Yes, that is so.

3198

Q. It appears that the letters 652, 653 and 654 are absent from this file? A. I think we shall have no difficulty whatever in producing that letter. It will be our own letter probably. That is why they have not put it on. May I make a note.

Q. I will give you a list of all of the letters, Mr. Cauty, so that we may have the file as complete as possible? A. Yes. I think we shall be able to improve that. We have not had the time to attempt, in the short notice we had, to get this file complete.

Q. You have this file G throughout the year 1910, have you not? A. Yes.

Q. Will you produce that for us this afternoon? A. "G" file 1910: yes.

Q. This refers to the year 1908, 1909 (indicating). It is so interesting we would like to have the year 1910.

Mr. Beecher: We have given you, as far as we could, everything you called for in your notice.

By Mr. Crim:

Q. That is true. The notice was not definite in that respect? A. No, it did not cover 1910.

Q. I show you Petitioner's Exhibit 12A, page 154 of the printed record in this case. The matter here purports to be, "Resolutions of the North Atlantic Steamship Lines Combine." Now is that the resolutions of the Atlantic Conference at Jena? A. It is quite strange to me. They are not resolutions of the Atlantic Conference but of the N. D. L. V. Line. 3200

Q. They appear to be a revision of certain resolutions. Do you know anything about that revision, who participated in it, under what authority it was done? A. I do not. I am not in any way associated with the N. D. L. V. Conference. I have not attended any of its meetings, and I have had no part or discussion in connection with any of these resolutions.

Q. Are those resolutions binding upon your company in any way? A. No, sir. Neither the White Star, nor the American nor the Dominion Line were in any way interested. 3201

Q. With respect to third-class? A. With respect to any class. We have no interest in them at all.

Q. Have you in your possession the minutes of the Atlantic Conference during the years 1908, 1909 and 1910? A. We have. We have submitted them to you. I think we submitted all that Mr. Crim had not got.

Q. I have not seen them (minutes produced). There have been times during the past few years when you held meetings every month or two? A. Yes. To start

*Arthur Belcher Cauty*

3202

with things were very unsettled and meetings were very frequent, but they have gradually got down. We have not had a meeting now for quite a time. I think they are all here. It was intended to give you them all.

Mr. Guiler: I do not very much gather where they are, Mr. Cauty. These are all the minutes we have got.

The Witness: We did not give you anything we knew you had already got.

3203

Mr. Guiler: They are not complete by any means. I could not make much of them last night. There are some there.

Mr. Crim: The witness produces minutes of the Atlantic Conference at Cologne, December the 3rd, 1908. The witness produces the minutes of the Atlantic Conference 22 to 141 inclusive. I offer those in evidence.

Petitioner's Exhibit 712.

By Mr. Crim:

Q. You are familiar with Articles 3 and 4 of Exhibit AA, are you not, Mr. Cauty? A. I am, sir.

3204

Q. And you are also familiar with Article 6 of AA? A. I will be if you will let me refresh my memory as to which particular one it is (the witness referred to the article of the agreement)? A. Yes.

Q. We observe from reading this that at the time of this agreement the contribution of a line plus to a line minus in their apportionment of souls was £4? A. Yes, sir.

Q. Did you have anything to do with making this amount £4 or the establishment of £4 as the amount under this article? A. It was a subject of general discussion at the meeting and I don't think any particular one had a say as to what it should be more than an-

other, but we had the experience of the N. D. L. V. They had a pool. I think it was felt by all to be a reasonable amount.

Q. What was the measure of whether it was reasonable or not? What was the standard by which this sum was fixed? A. The rates that were being charged for passage was undoubtedly the standard. For instance if our rates were to have been reduced to £4, then you would not consider £4 a reasonable amount.

Q. And why would you not consider £4 a reasonable amount? A. Because you would not then have a carrying rate for the passenger or anything to pay the agents' commission out of. There are certain expenses. 3206

Q. And a line that was minus operating on a rate of £4 would receive the same compensation if its line were idle? A. Absolutely, without having the expense of carrying the passenger.

Q. In other words upon that basis there was no incentive to operate the steamship line? A. Of course that is covered in the agreement.

Q. But independent of the sections which require the lines to operate there would be no incentive, would there? The line would make just as much idle as in operation? A. Well, looked at from the third-class passenger point of view it would be making a great deal more, because it would be getting the gross rate, assuming the rate was £4, without having the cost of carrying the passenger. 3207

Q. Exactly, and the line which did operate on that basis would be losing all it made? A. It would be losing a great deal more.

Q. Losing a great deal more? A. Yes, it would.

Q. Then the £4 was fixed as a reasonable rate, standard of a reasonable rate, was not it? A. It was.

Q. Has there been any situation arising with respect to third-class traffic which warranted a change in this standard of £4? A. It has never been changed.

3208

Q. It has never been changed. Has the White Star Line at any time asked to have it changed? A. As far as I recollect they have not.

Q. I understand you then to say that it was the experience of the lines, who were privy to this Agreement, that £4 had been a reasonable rate for a period of years, or at that particular time? A. The lines that were party to this agreement, or a great many of them, had no previous experience of the pool. You have not had that in your mind. They had not previous experience of the pool, so they could only arrive at some compensation rate which they thought would be fair for the future.

3209

Q. Did you have any data before you at that time, or have you had since, which would indicate the actual cost of transporting third-class emigrants, that it would be greater than £4? A. The cost of transporting third-class passengers of course has been already dealt with in Mr. Ismay's evidence. As he explained we cannot work out the cost of transporting exactly as a railway company in dealing with the cost on the steamship, where you allow the victualling the establishment on board, the various departments, the handling the passengers on shore, etc. I should say it came to probably £2 or £2.10.0. It varies a great deal according to the number of passengers carried on ship. That does not take into account what we call the steamship expenses, coal, the upkeep of the ship, the engine repairs, insurance, etc.

3210

Q. Now, with regard to these fighting, so-called fighting steamers, your purpose was to obtain for the pool lines every emigrant possible as I understand? A. Yes, we certainly wanted our fair share of the business.

Q. And when the Russia East Asiatic Line carried 500 passengers, and the so-called "fighting" steamers carried 2,000, you figure that by means of the "fight-

ing" steamer you had been profited to that extent, 2,000? A. Quite. We had secured 2,000 passengers, a good many of whom would have gone by the Russian-East Asiatic Company or other competing steamer which was quoting lower rates than our normal rate.

Q. Emigrants usually travel by the same lines, do they not? For instance the emigrant going to America who travels by a White Star steamer, ordinarily, his tendency is to come back by it—in case he comes back?

A. I would not go as far as that. I am afraid the experience of the past hardly justifies us in saying that. I think an old hand is apt to try his hand on different lines.

3212

Q. Your experience has been that his first experience does not control him in the future? A. We make the most of all the passengers we carry. We try to make them all advertisements for us.

Q. Your experience has been that the most effective way in bringing about an increase of rates is by means of the pool? A. Well, I would not go as far as that. I think for instance we might point out that our first-class business and second-class business is not pool.

Q. But your first and second-class business is carried pursuant—? A. To agreement.

Q. Rate agreements? A. Yes, I am quite with you if you suggest that is the best way to secure good rates of agreement. I do not say they are necessarily pool agreements.

3213

Q. Of course you are at some expense in the maintenance of a pool, whereas in an ordinary agreement, there is not occasioned the expense incident to the maintenance of the pool? A. Well, there is no great expense. I do not quite follow you with regard to the expense of maintenance.

Q. Well, it is cheaper to operate under an Agreement than under a Pool? A. Oh, I do not think so. You have in mind the compensation payment, I take it.

3214

Q. No? A. Do you mean the office expenses?

Q. Yes? A. Well, I dare say there is not as much correspondence, and statistics do not have to be watched so closely. I do not think that is a very serious item.

Q. Mr. Peters maintains a large office? A. He does.

Q. Do you know how many employees he has? A. Yes.

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Q. He also employs investigators to investigate complaints? A. Well, he has no investigators attached to his office—for instance, on the lines, of inspectors which I think you have in mind. He would investigate any complaint, and he visits all the offices at times to inquire with regard to passenger carriage and statistics, but he has not a police force attached to his office, if that is what you wish to imply.

Q. What methods does he adopt in ascertaining facts when complaints are made to him? A. He would have to deal with every case upon its merits. In cases where questions of rates are involved, the lines at the port of departure, he would probably inquire of.

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Q. Would he have someone in his office whom he could send to go through and audit the books of the company against whom the complaint was made? A. He has a right of access to all the passenger books of all the lines.

Q. Now, tell me briefly what Mr. Smyth does with respect to the British lines? A. Mr. Smyth acts as the British lines, secretary. The British lines as a whole are not parties to the pool. A number of the Canadian lines are not. The Allan Line are not parties to the pool, except in the Continental business. The Canadian Pacific are not parties to the pool. The Royal Line are not in the pool. Consequently, in acting as secretary to the British lines, Mr. Smyth's

services are not solely connected with the pool. In fact the pool is only part of his business, and with respect to that part he represents Mr. Peters, who is secretary to the pool. We have conference meetings from time to time; you can see the minutes, which are exhibits. Mr. Smyth is the secretary and enters them. He makes records of all the proceedings. If we wish to communicate any matter of interest about the line, we pass it through Mr. Smyth, he duplicates it and sends out a copy to each of the lines. He collects statistics for us. He issues our rate sheets.

Q. Mr. Smyth was in this business before there was any amalgamation, directly or indirectly, between the British lines and the so-called Continental lines and the N. D. V.? A. He was.

3218

Q. When the British lines became parties to the Atlantic Conference and became identified with the Hamburg American Line and the North German Lloyd, and other Continental lines, Mr. Smyth's office was taken over, as it were, as a local clearing house? A. No, sir. Mr. Smyth's office continued. I think that would be a better way to put it. The British lines decided that it was better to continue Mr. Smyth's office as their own particular conference office, their local conference office.

Q. When did this conference receive the name of North Atlantic? A. I could not tell you. We have always called it the N. A. C. This book goes back to 1904, and that is a new series. I do not recollect it having had any other name. I would not like to say that it had any other name, and I do not recollect when it actually started. It has been in existence as long as I remember.

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Q. Is Mr. Smyth under the direction of the members of the North Atlantic Conference, or is he under the direction of Mr. Peters? A. Under the direction of the British lines only. Mr. Peters has no control over him at all.



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Q. Do you know such a conference as the Metropolitan Conference? A. No.

Q. I saw the name in the papers, and I presumed that it was a typographical error for Mediterranean?

A. I have never heard of the Metropolitan Conference.

Q. When was the first arrangement made with the Transatlantic lines with regard to first and second-class rates? A. Are you going back now to ancient history? I believe it was in 1896.

Q. Was that pursuant to a formal agreement? A. I think we had a rate agreement then.

3221

Q. How long was that agreement in force? A. I do not remember.

Q. Then the time came when the agreement was abandoned? A. It was.

Q. How many attempts have there been to place the first and second-class American business under a rate agreement? A. They have been numerous. I could not tell you how many, but we have had numerous agreements at different times.

Q. Has the agreement that is now existing in fact been successful? Have the parties carried out its terms? A. Yes.

3222

Q. What has been your experience with respect to which traffic is the most profitable: first, second or third-class? A. That is a broad question. It depends which you get the most of, I think. If you can get very large numbers of first-class they would be very profitable.

Q. I mean to the White Star Line, what has been the principal source of profit to the White Star Line? Has it derived most profit from the first or the second, or the third-class? A. I really could not answer that question. This is for your information. I may say that it varies a great deal. For instance like the "Olympic" which sailed last week. She had

740 first-class passengers, something like 450 second-class, and a comparatively small third-class list. I think she had something under 400. You would not need to ask me which was the most profitable in that list with 740 first-class. But there is another ship which might sail with practically no first-class passengers, and a full second and third-class list.

Q. Now, which has been the most profitable to the White Star Line per passenger? A. Per passenger?

Q. Yes, the first, second or third-class passenger?

A. I should say the first-class passenger.

Q. You believe that your experience has been that the carriage of the first-class passenger is more profitable than the carriage of the second or third-class passenger? A. Yes, if you get enough of them.

3224

Q. You are taking into consideration the capital; that there is more capital invested in the carriage of the first-class passenger than the second or third? A. Well, I was taking into consideration the cost of handling him on the ship, feeding him, providing him with quarters, landing and embarking, but I was not taking into account the steamship expense or the capital value of the steamer.

Q. Proportionately, from the return, it costs less actually to transport the first-class than the second or third? A. Well, my answer would still be true if that was not the case. Supposing it cost 50 per cent of the passage money to transport a passenger, the passage money in the first-class is, well, it might be, three times what it is in the third, and if you take off 50 per cent you get a bigger return. You do get cases where with a very small list you carry first-class passengers at an actual loss; in fact you may carry all passengers at a loss on certain voyages.

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Q. How much greater has the net return been to the White Star Line on its first-class than on its

third-class? A. Well, sir, we have no figures which would show that. You are asking me a question now that I could not really answer you from any figures or any computations we have ever taken out.

Q. Have you ever made any effort to ascertain the exact cost of transporting a passenger across, an approximate cost of transporting a passenger across the Atlantic? A. We have made estimates of the cost of transporting them, taking into account the expenses I have given you; that is to say, just the particular expenses incurred on the voyage, but the previous question you asked me went further than that, rather.

3227

Q. Yes? A. And I have already said that I think on the basis that I mentioned the cost of transporting a third-class passenger would be about say £2 to £2.10.0.

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Q. What elements of cost have you left out of that calculation? A. Well, we have left out the insurance of the ship, for instance, to which all the earnings must contribute. We have left out the establishment charges on shore. We have large offices to maintain. We have left out the running expenses of the ship, the payment of the crews of the deck and engine department, the engine department repairs, and the cost of the coal. I think that is about all that I can think of at the moment.

Q. Have you taken into consideration the salaries of the various officers? A. No. We only take into consideration the victualling department expense; that is to say, the stewards' wages when actually attending on the people.

By Mr. Beecher:

Q. You have not considered the cost of the commission tickets and so forth? A. Yes. Well, that would be taken off in the net passage money.

By Mr. Crim:

Q. Mr. Cauty, so far as your system of accounting is concerned, each voyage stands by itself? A. Yes, sir.

Q. And on some voyages your net return from freight is greater than on other voyages? A. It is, sir.

Q. And some voyages your eastbound freight is greater than the westbound? A. It is.

Q. Again your return from third-class passengers on a particular voyage may be greater proportionately than the return from the first or second-class passengers? A. Yes, sir. 3230

Q. And the converse is true? A. It is.

Q. With respect to the first and second-class passengers? A. Yes, it is.

Q. So that if you have a large complement of third-class immigrants going West you can afford to carry freight cheaper than if you did not have so many third-class immigrants? A. It really has no bearing on it. The freight rates are fixed quite regardless of what the number of passengers is.

Q. How do you arrive at your freight rates? Are they subject to the amount of space available each voyage? A. No, the freight rates are continued from time to time, subject to fluctuations, according to the requirements of the market and discussion amongst the lines. 3231

Q. Are these rates fixed by a conference of the lines? A. Well, by discussion among the lines I should say.

Q. By discussion? A. Yes.

Q. Or a matter of agreement? A. Well, I should say yes, a matter of understanding among the lines.

Q. And are their rates predicated to the classification of the freight? A. Yes.

3232

Q. And how is your freight classified? A. You are getting me out of my depth. I know how to deal with the passenger business, but I cannot tell you so much about the freight business, except that we do classify freight among the fine goods and the rought stuff, but I cannot attempt to give you a detailed classification of the rates.

3233

Q. Is this classification made by a conference of the steamship interests or by some particular individual? A. I am not quite clear, as a matter of fact I am not quite clear as to the facts there. The classification has been in existence some time, but how and when it was arranged I cannot say.

Q. The classification has been more or less fixed permanently for a period of years? A. Yes, I should say it has, sir.

Q. And the rates however are adjusted from time to time with regard to the tonnage to be carried? A. To the requirements of the trade.

Q. In the establishment of freight rates do you take into consideration what the earnings of the line have been from passengers? A. No, sir.

Q. They stand separate and distinct? A. They stand alone and distinct.

3234

Q. And in the establishment of the passenger rates of either class do you take any regard to the earnings from freight? A. No, sir.

Q. Each in so far as your line is concerned is arbitrary to the other and not relative? A. Quite correct, sir, they stand alone.

Q. In respect of the establishment of rates? A. Yes, they stand alone.

Q. I show you G. No. 646, a circular, purporting to be a circular letter from Mr. Peters. This letter appears to enclose some correspondence between the White Star Line and the North German Lloyd. I show you what purports to be a letter of the date of

October 21st, 1909, from the White Star Line, or Messrs. Ismay, Imrie & Co. to the Nord Deutscher Lloyd. I ask you if you wrote that letter or you recall it? A. Yes, I did. Yes, I remember that very well.

Q. Did you write that letter, Mr. Cauty? A. The firm did. I believe I did. I do not remember. My initial is not there. I think I did. Yes, I think I did. I suppose I did write it.

Q. In one paragraph I find this sentence: "We are quite of your opinion that a general advance of at least 20/- all round should be made in the second-class rate. We think a pool would secure a larger increase, but I hope the advance of at least 20/- may be agreed, if a pool is found impossible"? A. Yes.

3236

Q. It was your opinion at that time that a pool would be more effective than the agreement in bringing about an advance in rates? A. I did not think so then, because certain of the lines were very reluctant to advance their rates—a good many were anxious to. Failing to get what we thought a satisfactory rate agreement we thought perhaps the reluctance of any lines to advance would be overcome if there was a pool, so that their position was protected.

Q. That is all I want to ask you, Mr. Cauty. Now, Mr. Cauty, if you will produce for us—

3237

The Special Examiner: You had better give him a list.

Mr. Crim: The list of letters which appear missing from File G, and the letters on File G, during the year 1910, and the Minutes of the Atlantic Conference.

The Witness: The minutes for 1910?

3238

*Arthur Belcher Cauty*

By Mr. Crim:

Q. Yes, 1910? A. Are these the ones you make out to be missing?

Q. Yes. That (indicating) is just a private memorandum? A. That is the one you just asked me about.

Q. Yes? A. That is not in here.

Q. No, it is not. None of these numbers are in there.

Adjourned till 3 o'clock, September 4th, 1912.

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3239

Resuming.

Mr. Crim: Now, Mr. Beecher, I simply want to get Mr. Cauty to identify some of these statistics to get them formally in.

Q. Now, Mr. Cauty, I show you Form Westbound No. 48A and is this a typical form of statistics that your office receives from Mr. Peters? A. That is so.

Q. And you have a corresponding form for the westbound traffic? A. Yes, sir.

Q. And I show you another form, No. 17? A. Yes, that is to show the working of the pool with the Russian East Asiatic.

3240 Q. And this form is typical of the others you have received periodically from Mr. Peters? A. It is, sir.

Mr. Crim: I offer those in evidence.

Petitioner's exhibits Nos. 727 and 728.

By Mr. Crim:

Q. And those statistics are made up from data that is sent to Mr. Peters from the respective members of the conference? A. They are.

Mr. Crim: Now, Mr. Beecher, there are certain agreements that have been produced by

Mr. Cauty that we want to offer in evidence, but we do not care to detain Mr. Cauty while you are marking them, so that you may have access to them for the purposes of your cross-examination.

Mr. Guiler: I offer in evidence various agreements which have been produced by the Cunard Company.

It is understood that they go in subject to the objection by Mr. Beers to any evidence of any agreement or conference other than AA, as not within the issues and incompetent and irrelevant.

3242

Mr. Crim: The agreements the Government offers now are all agreements by the White Star Line and produced by Mr. Beecher and Mr. Cauty, excepting certain agreements produced by the Cunard Line referred to in cross-examination of Mr. Ismay.

Mr. Guiler: The Cunard exhibits are already marked for identification.

Mr. Crim: They were some of the agreements I showed you the other day.

*CROSS-EXAMINED by Mr. Beecher:*

3243

Q. Mr. Cauty, in your direct-examination you referred to the rates of steamers and stated that the rates of the Conference Lines had never been below those rates and as a general thing you thought they were somewhat higher. Were you referring to—what rates of the fighting steamers were you referring to?

A. I was referring then to the published rates of the fighting steamers, although I might add we had every reason to believe that the Uranium Company—



Q. You are speaking of the Uranium Company? A. Other outside lines—although we had every reason to believe that lines were paying small extra commissions.

Q. You had no reference to the actual rates of the outside lines taking into account secret commissions? A. No, we dealt with the published rates.

Q. Now you started to say something in your direct-examination as to the relation between the control stations and the conference lines. Will you not please explain to us exactly what the situation has been in reference to control stations as you understand it?

3245

A. Well, as I think I understand, the control stations were established in accordance with the requirements of the German Government, who desired to have some control over immigrants coming into German territory either to reside there or to pass through German territory. The establishment of control stations had nothing to do with the meeting of this outside competition. The conditions under which emigrants are allowed to pass through these control stations are, as we understand it, decided by the German Government and one of the conditions is that emigrants passing through Germany are required to pass through the control stations to one of the German ports, either Hamburg or Bremen. They are shipped from there by steamers to

3246

London by the British lines receiving passengers, either to London or other east coast ports. That regulation as I understand it is insisted upon with regard to all immigrants except those from the Holland American Line and the Red Star Line. Those two companies which sail from Rotterdam and Antwerp respectively, have obtained a concession, I may call it, from the German Government which enables their passengers to pass through Germany to their own ports. Any other company wishing to have its passengers pass through Germany to some other port than Hamburg or Bremen would require to obtain such a con-

cession from the German Government. I may say the White Star Line tried very hard to obtain such an arrangement and other of the British lines have done so too, but we have not been successful and our passengers now come through Hamburg or Bremen.

Mr. Guiler: I ask that the answer be stricken out on the ground that the witness is not shown to be in any way qualified to state the requirements of the German Government as to control stations or as to their purpose or whether they were established to keep off outside competition or not and as not being the best evidence. 3248

Q. You stated in your direct-examination that the men in charge of those control stations were in general the agents of the Hamburg American and North German Lloyd Companies. Do I understand that those agents are responsible for causing emigrants to go only to Hamburg and Bremen or in accordance with the arrangement specially obtained by the Holland-American and Red Star Lines, to which you referred?  
A. Yes, those agents, the men in charge of the control stations, are naturally responsible for carrying out the requirements of the German Government.

Q. But it is only the requirements of the German Government which they are carrying out and not their own individual desires? A. No, the requirements of the German Government. 3249

Mr. Guiler: Objected to on the ground that the witness is not qualified to state the requirements of the German Government or whether it is their individual desires.

Q. Those lines do not make the regulations which are thus carried out? A. No, certainly not. The German Government, as we have always understood,

when deciding on the establishment of the control stations, I suppose, looked round for some right and proper means to work them and they placed the working of those control stations in the hands of the two German lines, the North German Lloyd and the Holland-American.

Mr. Guiler: Same objection and supposition of interest not evidence.

3251

Q. Well now, in the testimony which has been given in this cause in New York it was indicated that certain third-class passengers holding tickets of the Uranium or the New York Continental, or some other Conference Line bound for Rotterdam, had been stopped at the control stations, and had not been allowed to pass on until subsequently their tickets had been changed for tickets of Conference Lines such as the Hamburg-American Line. Can you give any explanation for that? A. Well, I am not acquainted with the specific instances you refer to, but any line not having a license in Germany for the conducting of its passenger business, and not having obtained a concession from the German Government for bringing its passengers through Germany, would naturally not be able to get its passengers through the control stations.

3252

Mr. Guiler: Same objection—witness has no personal knowledge.

Q. Under the regulations of the German Government a third-class passenger holding a ticket on such a line would not be permitted to pass the control stations? A. No, I should understand that is the case. The White Star Line and other British lines, the Cunard Line, for instance, have had a license from the German Government for many years, long before the pool was in existence of course.

Mr. Guiler: Same objection.

Q. Well, not a license permitting the direct passage of your passengers through Germany? A. A license to do passenger business in Germany.

Q. This operation of the control stations, I understand you to say, has no connection with any agreements of the Conference Lines, or any steps taken by the Conference Lines to carry out their agreements? A. No, sir; there is no relationship so far as I understand.

Mr. Guiler: Same objection.

3254

Q. Now you were asked in regard to the compensation rate of £4 fixed in the Agreement A. A., and I understand you to testify that £4 was regarded as a reasonable compensation figure. Will you explain exactly what you understand to have been the basis of fixing that amount? A. Well, that is rather a difficult question to answer, but it has, of course, to be dealt with on very broad lines. The idea was that if a line was over-carrying a percentage it should not be making a profit out of such passengers that were over and above its allotment, and in consequence the lines had to take in a rough and ready way some general idea as to what rates were being paid by the passenger, what it would cost the line to carry that passenger, and then that anything left over was to go into the pool. The idea of fixing £4 as a compensation rate was with the idea that as a rule a line paying compensation would not be getting anything for itself out of such passengers.

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Q. Did you intend to give the impression that £4 bore any relation to what would be a reasonably remunerative rate for carrying a third-class passenger? A. No, sir; I should be very sorry to carry passengers at £4.

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Q. The idea was solely to fix a compensation rate which, as you say, in a rough and ready manner, would as nearly as possible cause the lines to carry the percentage which had been fixed under the pool? A. That was the idea.

3257

Q. You were asked in regard to Mr. Peter's office and the expenses incurred in connection therewith. Would those expenses be materially different whether there was, or was not, a pool? A. No, sir; I should say that the expenses of a secretary's office under the pool, that is Mr. Peter's office, were a mere bagatelle. It is not a matter worth considering in the operation of a steamship company.

Q. Would the expenses be materially different if there were merely a conference as you defined it instead of a pool? A. I suppose they would be a little less; possibly a couple of clerks less. It would be so little as to be immaterial. We have always kept on our conference office whether there has been a pool or not; whether there has been an agreement or not.

Q. As you said before, the conference and the secretary of the conference serve a great many other purposes than the carrying out of any pooling arrangements? A. Certainly.

3258

Q. Merely as a means of communication and the interchange of ideas I assume that a conference and a conference secretary would be essential? A. Well, we have always felt it to be so. Our conference in Liverpool, and Mr. Peter's office, have been in existence for very many years. I do not remember when they were started.

Q. You have stated that there were rate agreements in respect to first and second-class business, to what do those rate agreements refer? A. Those are rate agreements in respect to the minimum rate; that is to say, that no line may go below the rates provided for in these agreements for first or second-class passengers as the case may be.

Q. Does that leave the lines free to charge as much as they like for the accommodations on any steamer and furnish what accommodations they like on any steamer? A. Undoubtedly. Not only that, but the range of rates is very large. For instance, if you take a ship like the "Olympic" or the "Mauretania" or the "Lusitania" you find very few passengers indeed, in the season are carried at these minimum rates. We have a much higher rate.

Q. So that the range of rates and the possibility of competition, and the actual competition as to the first and second-class accommodation in the rates, is very extensive, is it? A. Undoubtedly. 3260

Mr. Guiler: Objected to as calling for a conclusion.

Q. You were asked in regard to the method of establishing freight and passenger rates, and you testified that they were fixed independently of each other. What is, as you understand it, the idea in fixing such rates? A. Well, we fix all our rates for freight or passengers west and eastbound with the idea of getting the best return we can; making the business as profitable as we can.

Q. On the different classes of business? A. On the different classes of business. 3261

Q. I suppose the fact that you have a full cargo of freight or a full cargo of passengers, would not cause you to carry the ordinary class of goods or passengers at a reduced rate? A. No, sir, it would not.

Q. You would not, because you were getting good freight rates, carry your passengers at a loss so as to ease things up? A. No, sir, we should not. Each class of business stands on its own bottom. We do the best we can with each.

Q. Now, Mr. Cauty, under the agreements and arrangements which you have and have had, will you

state in a general manner some elements of the competition which exist, if it does exist, between the various conference lines in the carrying on of their business? A. Well, I think, speaking broadly, we can say there is competition in every class of our business, for instance our freight business is conducted under condition of active competition on all the lines. Our first-class passenger business is conducted under a rate agreement now—

Mr. Guiler: Objected to as not stating facts but conclusions.

3263

Q. As to minimum rates? A. Which leaves that business open distinctly to competition, and which is evidenced by the strides the lines have made in providing attractions to draw the first-class business with respect to steamers. This more than applies equally to the second-class business where again we are working under a rate agreement.

3264

Q. Again as to minimum rate? A. As to minimum rates only, and although it may appear somewhat unexpected to say so, I might add that under our third-class pool the elements of competition are not entirely eliminated, for instance a line is allotted a certain share of the business, and I think in looking at the features of the pool it is only fair to keep well in mind that the facilities are not arbitrary facilities, but are merely establishing or merely securing the relation and maintenance of class conditions, and every class of pool is based on the past character of the line, and where possible on the past carryings for a considerable number of years. Now in the working of a pool a line has to carry approximately its full percentage, and if any line was to draw behind in the race with regard to making its ships attractive, drawing the passengers, it would undoubtedly suffer. In the first place it would suffer in its revenue, falling behind in its percentage. It would

ultimately have to reduce its rates. The pool in no case is made for a great period of years—this five years' agreement we have now is the longest period it has been made for, and any line that systematically shows its inability to carry its percentage would have a very difficult case to meet when the renewal of this pool came up for consideration, and I think this is evidenced by the condition on the North Atlantic today, that all the lines fully realize this. You have only to look at the ships we have on the Atlantic and the accommodation we provide, the improved victualling we give the passengers, to realize how much the conditions of the passenger have been ameliorated during the recent years in crossing the Atlantic. That I think must be clearly laid down to the wish of each line to keep well up to its competitor.

3266

Q. Will you give us some of the details which you have mentioned? A. For instance if you take the third-class accommodation that was offered, I think I might say ten years ago such a thing as closed room accommodation was hardly known. Nearly every passenger had to take his berth in what were called open steerages where the bunks were as a rule wooden built, the provision of dining room was quite unknown. Passengers had to take their meals on tables put on the hatches, the idea of providing a general room for recreation or a smoke room was also quite unknown. On the ships today you see the open accommodation has been very largely replaced with closed rooms.

3267

Q. You mean the open rooms? A. The open accommodation has been very largely replaced with closed rooms. In fact, many ships have nothing but closed room accommodation. We provide dining rooms, recreation rooms, smoke rooms, and the scale of dietary is much more liberal.



*Arthur Belcher Cauty*

3268

Q. About the toilet. Bathing arrangements have been made in that direction? A. That I think has gone with the other. The lavatory accommodation is improved. That goes with the march of the times, but I think that clearly shows that the element of competition which is by some felt to be more or less necessary to keep up facilities offered to the public, or to increase the facilities offered to the public is not entirely absent even under a pool. In fact I might say it is very present.

3269

Q. Now, Mr. Cauty, you testified, I believe, that you had been in the steamship business for a good many years? A. Yes, I have, sir. I have been in it since 1886.

Q. And your business has been peculiarly that of the passenger business? A. It has been particularly that of the passenger business.

Q. In that connection have you perhaps more than anyone else had to do with the relationships between the different lines and the making of agreements and the holding of conferences? A. I have been at all meetings, I think, in connection with the 1908 agreement. In fact I do not think I have missed a meeting.

3270

Q. You are very familiar with all the conditions which have existed and the reasons which have led to the existing methods of conducting the steamship business? A. Yes, I have been in very close touch with all the negotiations which led to the agreements. I am assistant manager of the White Star Line now, and among my other duties I particularly look after passengers.

Q. Will you give us briefly your views as to the reasons for the advisability and necessity of having such agreements as "AA" and similar agreements which have been considered in this clause? A. That is a far-reaching question. I think the best way to reply to that question is to refer to the past history of the lines.

We can go—in fact I have gone in review in connection with this inquiry, I have refreshed my memory too with regard to the circumstances in the way of agreements which have availed in the Atlantic trade for the past thirty-two years. I cannot say that I can otherwise recollect or recall what happened so far back, but I find our first agreement we have any record of dates back to 1880, when there was a Scandinavian pool established, which lasted for a short period, I do not remember how long. But from 1880 to 1888 various agreements were in existence, and from 1889 to 1895 was a very strenuous time in the North Atlantic trade. All agreements went by the board, and this period was one of keen competition between all the Atlantic lines. Each line did what they thought best, and rates went down to an absolutely unremunerative level.

3272

Q. Such as, for example? A. Well, I think it went down to £2. I think the rate that Mr. Ismay mentioned is one that has been resorted to in a subsequent rate war. I think we went down to £2. I believe it was 30/—, but I am not sufficiently sure about it to make the statement definitely, but I can safely say £2, and I think the result of this competition is very instructive, because if we look at the list of companies who were engaged in the Atlantic trade in 1880 and those who were left in after this rate war, we find there were a good many names missing. The Inman Line went into liquidation. The Beaver Line got into very serious difficulties, and was subsequently bought up. The Guion Line and the National Line went out of the business. The Warren Line, started carrying passengers, but also went out of business, and the State Line was subsequently amalgamated with the Allan. All these troubles arose, I may say, during those six years or thereabouts, and I think the lesson we have to learn from time is that if these conditions had been

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continued, they had only to be continued long enough for the Atlantic travel and the whole Atlantic trade to be left in the hands of one or two of the strongest companies. When the lines got together in 1895 we do not find any line then standing back. We find everybody very very anxious to remedy this very unfortunate state of affairs. The lines then got together, and that first agreement in regard to Continental business which has been put in as evidence which allotted the British lines a share of the Continental business, was arrived at, and I may say that that is really the foundation stone of our present agreements. It is true the negotiations have not proceeded along a smooth path always. We have had breaks in our peaceful relations, in 1903 to 1908 we were again more or less at loggerheads with one another. But the fight in those days was comparatively a short one. We only got to reducing rates towards the end of the period, and it was in 1908 that our present agreements were established. Now, in arriving at a pool we did not say to ourselves "This business must be pooled." I do not know whether you can understand the distinction; I want to make it clear. We did not approach it as a pool with one object in view. We had been working almost entirely up to then under rate agreements, and I may tell you it was a very, very difficult thing when you had to give a separate minimum rate to each individual steamer on the Atlantic. We did accomplish that in respect of first and second-class passengers, but with regard to third-class the difficulties between the various lines were insurmountable, and I think I can say that for nearly two years negotiations were going on in a desultory fashion between various interests in an endeavor to find some way out of this deadlock in regard to third-class business, and it was only after considering a great many different ways of arriving at a solution of the question that this

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pool, the AA Agreement, about which so much has been said, was made. That pool was established as an alternative to a rate agreement, and we have found it has got over a great many of the difficult questions which had to be considered in connection with third-class business. Now, in making this settlement I think it is only fair to again point out, from our point of view at any rate, the benefits that we think have accrued to the Atlantic passenger and the merchant on both sides of the Atlantic as a result of these agreements. We have established lines which are operated regularly, we have given a class of steamer and accommodation which I can confidently say would never have been dreamt of if the unstable conditions of the years prior to 1895, for instance, had continued. But we feel unfortunately that the results of the pool have been to encourage outside opposition—lines to come into the trade which never could have lived on the Atlantic. I believe the steamship companies are held by some on the other side of the Atlantic to be guilty of having formed some combination with the idea of crushing outside competition. Now, I can give you my view very frankly and without any hesitation, that if this pool had not been formed and these agreements had not been arrived at, no outside competition could have lived on the Atlantic for five minutes. The established lines would never have consented to have allowed any other line to have come in, and attacked their business. The Uranium Company, which is now in operation, sails from Rotterdam to Halifax, New York and back to Rotterdam. The Holland American Company is a well-conducted line, a line with considerable resources, and it is not to be conceived that the Holland American line would have tamely submitted to any other company attacking their business in their own port. The conference, however, shares the loss with the Holland American Line in so far as the Ura-

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*Arthur Belcher Cauty*

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nium Company, which practically only affects their third-class business, is concerned, and it is not the Holland American Line only which is affected by outside competition, but it is the pool as a whole. The Uranium Company, we have every reason to believe, is backed by the Canadian Northern Railway Company. The Canadian Northern Steamship Company is what we know as the Royal Line. The Royal Line is one of us; they are not in the pool, but they are in the rate agreements, and they work amicably with us. The Uranium Company, on the other hand, is outside the pool, and they have consistently run their ships at rates

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lower than the pool line steamers. The pool lines steamers' rates now are on what we consider a fair and remunerative level. The Uranium Company consistently underquotes us. Westbound they take rates probably £2 lower than the pool lines. Eastbound as you know they have been quoting as low as nineteen dollars net as against the Conference lines' rates, which range from twenty-eight to thirty dollars, and that might open a suggestion as to the reasonableness of our rates. But from our point of view the Uranium Company is operated in the interests of a Railway Company. We have it on very high authority that a railway company subordinates its steamship interests to its railroad interests, and we have no reason

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to believe that the Uranium Company is in any different position. We think probably the Uranium Company will be continued and has been continued in spite of very heavy loss by interests which are perhaps not normally the Canadian Northern, but are certainly very closely identified with the Canadian Northern. I do not know, gentlemen, that I have anything more to add as to why we came to make these agreements, or as to what I think the effect has been in respect of outside competition, which as I have already explained briefly, is that our agreement has

enabled the competition to live, and not, as in the United States case, sought to crush the competition. If we had sought to crush it, I will submit that we have been unfortunate in our efforts, for not only has the Uranium Company not ceased to exist, but it has consistently increased its business.

Mr. Guiler: Objected to on the ground that the witness shows no basis for statement in regard to unremunerativeness of £2 rate and no personal knowledge as to the reasons why Guion, Beaver & Co. Lines, went out of business or that the reason given was correct and no knowledge that the Uranium Line is backed by the Canadian Northern Railroad interests and that the conclusions are conjectural and not backed up by any facts testified to. 3284

Q. Have you any figures as to the percentage of business carried by the lines outside of the Conference? A. The non-conference lines, the non-pool lines, perhaps, to call them correctly, in 1908 carried 16.42 per cent of the westbound business. In 1909 they carried 12 per cent. I can explain that, I think, very easily by reminding you that in 1909 the Russian Volunteer people went out of the business, the Russian East Asiatic Company joined it and the Uranium Company ceased sailings for a time, but in 1910 their carryings went up to 18.48 per cent of business. In 1911 they went up to 23.66 of the business, whereas in 1912, up to July 31st, they carried 22.95 per cent of the business. Eastbound, the situation is much the same. In 1908 the non-pool lines carried 9.09 per cent of the business, in 1909, 6.46, in 1910, 11.13, in 1911, 12.77, in 1912, up to July 31st, they carried 9.84. The carryings probably of the eastbound business, are, of course, much stronger in the second half of the year. I think that will probably prove that. 3285

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I think that amply shows that if our efforts had been to drive out this competition they have not been very successful.

Mr. Guiler: Objected to on the ground that the witness has no knowledge of the alleged facts testified to and is unwarranted in drawing his conclusion from them and that is conjectural.

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Q. Now, Mr. Cauty, from your experience with the shipping business in all these years what would you say as to the probable result of such agreements now existing among the lines being put an end to? A. Well, that again is rather a difficult question, because we have the opinion of certain of the managers that perhaps now we shall not see a return to the severe competition and low rates of former years.

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Q. I believe that Mr. Ismay said he thought that at the present time, perhaps, the shipping people had got more sense than they had in the olden days? A. Well, I must say, of course, that is an expression of opinion, and anything I say would only be an expression of opinion; but my own opinion is undoubtedly that we could not continue to maintain the business on a satisfactory normal level without agreements. I do not think it is possibly, the jealousies of the different lines and the different interests are too keen, and given that unrestrained competition and low rates there is only one conclusion that one could expect, and that is the elimination of all the weaker lines and the monopoly in the hands of the stronger lines.

Mr. Guiler: I object to the conclusion of the witness as to the elimination of weaker lines and resultant monopoly as being conjectural, fanciful and entirely without any basis upon fact and too remote for consideration by the Court.



Q. What effect do you think that would have upon the character of the services rendered to the travelling public? A. I think the services rendered to the travelling public would be very much curtailed.

Mr. Guiler: Objected to on the same ground.

Q. And frequency of sailings? A. And frequency of sailings and accommodation on board ship would all suffer. In fact, I think that those who cross the Atlantic, those mercantile interests which require constant communication across the Atlantic, would all be very seriously prejudiced by a termination of rate agreements, pooling agreements, between the lines. 3290

Mr. Guiler: Same objection.

Q. I understand, Mr. Cauty, that you have produced, or will produce, as far as possible, everything in the possession of your company as required by the United States District Attorney in addition to such documents as they advise you they already have? A. Yes. We have all along been most desirous of giving every information that the Government desire, and we are now engaged in getting out documents which Mr. Crim asked for this morning. We have a good many already in hand, and when we get them we will send them up. 3291

*RE-DIRECT EXAMINATION by Mr. Crim:*

Q. Mr. Cauty, I understand you to testify on cross-examination that the purpose of establishing £4 as a standard of compensation was to deter a company from carrying more than its allotment? A. May I say to remove any inducement to the company to carry more than its allotment. I think perhaps that would be a more correct term.

Q. Likewise it was fixed on that basis of £4 so as to not compensate a line that had not carried its allot-



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ment to the extent of a profit for being a drone? A. Well, I hardly think that is correct, Mr. Crim, because supposing a line is overcarrying largely, and you can get a considerable number of £4 without having to do anything for it, it is not a bad business. The check really was on the line that overcarried; there are other considerations. There are other clauses in the agreement which require lines to carry their percentage, and it would be brought under operation in connection with a line that was short of its percentage, in so far as that line would require ultimately to reduce its rate, would be obliged to reduce its rate.

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Q. If the £4 gave the line under its percentage a profit there would be a substantial incentive to become a drone, would there not? A. Yes. If it was left and allowed to draw £4, and do no work, I should say it would be very profitable, but that would not be permitted.

Q. Now, the tide of immigration, in so far as third-class is concerned, between America and Europe is largely dependent upon the prosperity of the United States, is it not? A. Very largely, sir.

Q. And that immigration has increased greatly during the past few years? A. No, I should not say it had. I think the figures are all available. I think you will find we never touched 1907.

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Q. Well, from 1905 to 1911 there has been a high tide of immigration, has there not, to the United States? A. 1907 has been the biggest year there has ever been. We have never touched that since. In fact 1908, as you know, was a very bad year.

Q. Do you attribute the bad year of 1908 to the panicky condition of affairs in America? A. Yes, we did, sir.

Q. Do you recall that just previous to 1895 we went through the most serious panic in America since the Civil War? A. I cannot say that I do.

Q. Do you remember the condition of financial affairs generally in America in 1893? A. Twenty years ago? Well, I cannot say that I do sufficiently clear to answer you "yes."

Mr. Beecher: Well, counsel will concede that 1893 was a panic year in the United States? A. I concede that. I do not remember the circumstances.

Mr. Crim: Thousands of corporations failed all through America. Wheat sold at forty-nine cents a bushel and corn at nineteen cents a bushel. Would not that condition in America have a very material effect upon the steamship business? A. I should think it would.

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Q. Might not that have contributed very greatly to these lines going into bankruptcy and insolvency as you have indicated? A. Tell me what was that—1893?

Q. 1893. A. May I refresh my memory?

Q. The period from 1892 to 1896? A. The National Line went out of business in 1892, the Monarch Line out of the passenger business in 1888, the Guion Line failed in 1894, the Inman Line went into liquidation in 1888, and with regard to the Beaver Line I do not know when they were bought. But I have no doubt that any line that was in existence in those days that you speak of would have felt the strain very severely. There is no question about it. We did in 1908. But I think the agreement that was in existence in 1908 helped us very materially and softened the blow.

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Q. Do you apprehend that if Agreement A. A. were abandoned that the steamship business would be more or less demoralized? A. I think so, sir.

Q. First-class rates would go down? A. I think so.

Q. Second-class rates would go down? A. I think so.

Q. Freight rates would go down? A. I do not think it would affect freight. I have no reason to think it would affect the freight rates. Freight rates are worked so absolutely independently of our passenger rates.

Q. Third-class rates would go down? A. I think so.

Q. What has been the percentage of increase in the steamship business during the past twenty years?

A. I am afraid I cannot answer you that question, sir. I can get it for you. I could not answer you that off the book.

3299 Q. There has been an increase of one hundred per cent or more in the number of vessels plying between Europe and America, has there not? A. Well, yes; I should imagine you were quite correct, without looking it up.

Q. And the capacity of these vessels has increased commensurately? A. It has.

Q. And the freight business between the United States and Europe has increased commensurately so as to justify the new vessels with their enormous capacity? A. Well, I should say the freight business suffered a long period of very serious depression. It was only at the end of last year and this year it has again begun to approach what we hope will prove to be a normal condition again.

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Q. It sometimes happens, or has happened, that just subsequent to these competitive fights that the business has increased very greatly, has it not? I will direct your attention to the experience of the Hansa Line when that fight was on between the steamships plying between America and Sydney, I believe? A. May I refresh my memory from these notes (indicating)?

Q. Yes. A. Well, in 1895, which was the first continental pool agreement, that was the year in which

the westbound carryings to America totalled 328,000 and that declined until 1898 when it reached 274,000, and for subsequent years it showed a steady increase; 1899, 1900, 1901, until the high water mark of 1907 was reached. It has not been reached since, of course, as you know.

Q. And the larger the number of emigrants transported the cheaper the cost of transportation? A. Undoubtedly by each ship.

Q. The larger vessels engaged in transporting third-class passengers carry them, and at considerably less cost than the smaller capacity vessels? A. I think, sir, you want to prevent a misconception creeping in, to bear in mind my answer applies to the individual ship, whether there are a million passengers going to the United States or only 2,000 the cost of transporting them need not vary if you put the same number into each ship. For instance, if you have one ship carrying 2,000 passengers—it is an absurd argument—but suppose those were the only passengers going to the United States, there is no reason why she could not carry them as easily as 500 vessels carrying a million.

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Q. Exactly. A vessel with the capacity of 25,000 tons will carry passengers at much less cost relatively than the ship of 10,000 tons? A. I think it would be fair to say that a modern ship can carry passengers much cheaper than an old ship because of her improved design, and the more economical use of her space. For instance, we have ships now of 10,000 tons which cannot carry passengers economically anyhow, but we have also ships at much about the same size which when full, will carry the passengers at much about the same cost as our big ships when full, but the balance, as far as there would be a difference, would be in favor of the big ships.

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Q. Is that your experience and information with regard to lines other than the White Star? A. No, sir; the White Star, but I can safely say that is the experience of any steamship company.

Q. So that most economical way to transport an emigrant is today approximately a 25,000 ton vessel sailing across the Atlantic in about seven days? A. Yes, at a moderate steam.

Q. Is that a moderate steam, seven days? A. I did not catch how much you said.

Q. I said seven days? A. I should give eight days. When you get seven days you are getting up to twenty knots.

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Q. When you increase the speed of your vessel to five or six days you increase the cost of transporting the passenger? A. Very, very much.

Q. Likewise when you reduce the capacity of your vessel to 7,000 or 8,000 tons requiring fourteen days you increase the cost of transporting the emigrant? A. Would you kindly repeat the question.

Q. When you decrease the capacity of the vessel to 7,000 or 8,000 tons and extend the time to fourteen days you increase the cost of transporting the emigrant? A. That is a very long time. I can hardly conceive that time. It might, if it was a modern ship, it might be a cheap ship to operate. It is not the ship I should build if I had the money, but it is a cheap ship to operate.

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Q. Now, as I understand you this morning on direct-examination to say that there were agreements with regard to freight? A. Yes.

Q. What is the nature of those agreements? A. Well, I am sorry to say as I think I told you this morning, I am not anything like as fully aware with the trade arrangements of our company as I am with the passenger arrangements. I know that the trade rates are arranged according to classification, and lines

exchange duties from time to time as to what they should be. They are controlled more or less by the difference in trade. When trade is good, and more than enough to take up the accommodation offered the freights are increased.

Q. You represent several lines that operate under A. A.? A. You speak of me personally?

Q. Yes. A. At the meeting I represent the White Star, American, and the Dominion Lines, usually in conjunction with Mr. Ismay.

Q. Now, has any one of those lines received any special benefit from the pool as contracted with the others that you represent? A. No, sir; I should say we benefit from the pool and the other agreements. The whole structure is really one.

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Q. A. A. alone would not be sufficient to maintain the stability of rates. It is only in connection with the agreements that are made with the other lines?

A. There have been agreements with regard to third-class business in the past without first and second-class business, but taken as a whole A. A., and the first and second-class agreements are very much more attractive than the situation which went, when only A. A. was put in. We should be very sorry to see the first and second-class agreements cancelled.

Q. I think that we passed over a question I desired to ask you with respect to the fight occasioned by the U. S. Line from New York, with freight. Are you familiar with the fight that was made there? A. I am not.

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Q. In substance the Royal Commission reports that subsequent to that fight it was found that trade between the two countries had increased accordingly?

A. Subsequently to the fight.

Q. Subsequently to the fight? A. No, I am not acquainted with that.

Q. Do not you think those competitive fights tend to bring about greater energy and intercourse between two countries? A. I doubt it very much, but in any case the United States is taking care that the third class emigrant into the country is not increased too much, are they not? Their policy is rather to restrict emigration.

Q. Would you make the same reply with respect to first and second-class passengers? A. No, sir; I do not think the same conditions apply with respect to first and second-class passengers. Our first-class very largely consists of Americans who come over here for their holidays.

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*RE-DIRECT EXAMINATION by Mr. Guiler:*

Q. Mr. Cauty, there are one or two other things I want to ask you. I want to know whether you have ever had any practical experience with the control stations between Russia and Germany? A. Do you mean have I personally visited them? No, sir.

Q. So you personally do not know for what reason the individual emigrant is sent back from those control stations to his home, and not allowed to go through? A. I may tell you that personally you would find very few steamship managers in Liverpool who have been to the control stations.

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Q. I was asking your experience? A. I would like to tell you we have had explanations with regard to the control stations which we have every reason to think are true, and my reply to that form of question with regard to the control stations was based on information given to us by our German friends, and with the knowledge of associating the agreements of the other Continental Lines who, I think, are a little closer up to the conditions existing in Germany, and who accept them as correct, and we accepted them as correct.

Q. When you testify with regard to the control of stations, you testify not from your own knowledge, but from what the Hamburg Line, and the North German Lloyd told you, and the Holland, and the Red Star have told you, and not from personal knowledge? A. As to the White Star Line having had to get a license from the German Government for doing emigration business.

Q. You had no practical experience in crossing the control stations, or in passing them? A. I have not attempted to go through the control stations as an emigrant on any occasion.

Q. So that if, as has been testified to before in this hearing, the emigrants have been turned back simply because they held Uranium Line tickets and without any further question, you cannot say that it was because they have violated any regulation of the German laws—

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Mr. Beecher: I should object to the form of the question as not correctly stating any evidence that has been given.

Mr. Guiler: I understand it has, Mr. Beecher. We put witnesses on the stand here who testified that they were merely questioned what kind of steamship ticket they had and when they said Uranium tickets they were told to go back.

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Mr. Beecher: That may be, Mr. Guiler, but there has been no testimony that the reason has been because they hold Uranium Line tickets, and not because the German regulations prohibited the passage of emigrants holding tickets on lines which have not secured authority to pass their proposed passengers through the control stations.



By Mr. Guiler:

Q. Have you ever studied the laws in regard to passing these control stations or looked them up? A. I think I can produce you the law under which we have our license from Germany?

Q. No, I asked you if you had looked up those laws, and if you can testify from your own knowledge as to the requirements of passing through? A. No, I cannot say personally. I have not studied those laws.

3317 Q. But you got your information from the North German Lloyd, the Hamburg-American Line, and the Holland-American Line in regard to that? A. And the Red Star Line also.

Q. So that as to those cases we have put in evidence previously you cannot testify from your own knowledge as to the particular reasons why they were turned back? A. No, sir; I cannot, but I have every reason to believe that what I have testified is correct.

*RE-CROSS EXAMINATION by Mr. Beecher:*

3318 Q. I have one or two questions, Mr. Cauty. You testified in answer to Mr. Crim that in your opinion without the A. A. and other similar agreements all classes of passenger rates would go down. Is it your opinion that that reduction would be permanent? A. You mean if no agreements were established?

Q. If no agreements were established? A. I do, yes, I think it would be a very very heavy blow on the North Atlantic trade and I think it would be a check to the progress in the conditions on the Atlantic which have been so marked of late years.

Q. Well, now, after those low rates had taken their effect of putting out of business the weaker lines, what would be the—

Mr. Guiler: I think you are assuming something there, Mr. Beecher.

Mr. Beecher: He is testifying that that is his opinion.

Q. What would be the inevitable result? A. I think in my testimony I said the result of this competition, if it was left to reach its natural conclusion, would be to drive out the weaker lines and secure a monopoly for the stronger lines. Is there any need to say more? We all know what monopoly means.

Q. So that when that situation was reached it might be assumed that not only the accommodation and the service would be less— 3320

Mr. Guiler: I think he has said all that before.

The Witness: It would not be the millennium. I am sure we need not emphasize the fact that monopoly stands for all that is bad in American eyes. I think the monopoly might be used to the disadvantage undoubtedly of the travelling public and the merchant on both sides.

Q. The result would not in your opinion be favorable in the end to the travelling public, shippers, merchants and anyone else? A. Exactly.

Q. In considering the cost of carrying passengers in the big ships it was not directly stated, but I assume that the proposition that it would be cheaper to so carry them must be based on the assumption that the ships carry the full complement, or substantially so? A. Yes, I emphasized that too, I think. In answering Mr. Crim, I dealt with large numbers on each individual ship, that one ship carrying 2,000 would carry them just as cheap as 500. 3321

Q. You certainly could not carry a few emigrants on a large ship as cheaply as on a small ship? A. Oh, no.

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Q. And in considering the cost of carrying in the large ships you are referring chiefly to the operating case and there would be still taken into account the increased capital charges resulting from the cost of the big ships? A. Undoubtedly that has to be taken into account.

Q. These big ships which carry economically when full may have a capital account two or three, or even five times, larger than that of smaller ships? A. They have undoubtedly.

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Q. In relation to the question of the speed of ships; in this connection am I right in supposing it is cheaper to feed third-class passengers on a comparatively slow voyage rather than pay the coal charges for a quick trip? A. Undoubtedly.

Q. There is nothing much more expensive than speed, and any increase of speed means an enormous increase of the coal cost? A. Not only the coal cost but you take up far more of the ship with engines and boilers.

By Mr. Crim:

Q. Every increase from seven days? A. Undoubtedly.

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By Mr. Beecher:

Q. Not merely from seven days, but a ship with small engines and a very small coal consumption may cross the ocean in ten or twelve days very much more cheaply than one which crosses in seven or eight days? A. Oh, yes. You get also very much more space. You require less room for engines, boilers and coal. You have a practical example in the "Mauretania" and "Lusitania," that carry practically no cargo at all, and they are 32,000 tons.

Q. You stated, in your opinion, one result of the pool was to enable outside lines to continue in the

business that would be otherwise impossible. Will you explain exactly how you reach that result? A. Well, I think I can repeat myself in pointing out that when lines are working without agreements, as we have worked in the past, they all appear to be very ready to protect their own trade, and there has been no hesitation in going down to unremunerative rates. We have no reason to believe that if outside competition were to arise again, and there was no agreement, any line that was particularly attacked by such outside competition would at once retaliate and retaliate very severely. In the case of the Uranium Company the Holland-American Line is the one particularly affected by the competition, and the Holland-American Company is a company of considerable resources, and a well managed company, and it is not to be conceived that they would calmly submit to the Uranium Company coming in and under-quoting them—that is the pith of the whole thing, an outside company comes in and voluntarily quotes lower rates—without retaliating very severely, and I think they would retaliate very effectively. I think they would be able to drive the outside competition from their port. In the case of the pool we do not fight. The term “fighting steamer” is a misnomer; because if you are fighting you not only receive blows but you give them and all we have been doing has been to put on a ship at a rate somewhere about the rate the Uranium Company was charging, not under. I think probably if there had not been the agreement, they probably would have had a fleet of ships sailing against the Uranium Company at less rates.

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Mr. Guiler: Objected to as a conclusion, opinion, conjectural and not based on any facts known to the witness as testified to by him.

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Q. In other words, what you do is to lessen the blow directed against the Conference Lines by outsiders? A. That is what we do. We say if this ship is left alone at cut rates it will draw a large amount of custom from us, and we put on a ship about the same rate, usually a little higher.

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Q. It is self-evident, I suppose, but am I right in understanding the very existence of agreements, of Conference Lines, and stable rates, affords an opportunity to the outsider to fill his vessels with passengers at a lesser rate? With a maintenance of the rates of the Conference Lines he would not be able to do so? A. That is undoubtedly the case.

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Mr. Guiler: Mr. Cauty, the fair share of the business you have spoken of as somewhat smaller is like the Irishman's share of the whiskey—it is at the bottom? A. Oh, no. It is rather interesting when you hear sympathizers of the Uranium Company saying that the Conference ship was put on with the idea of taking all they can get. What do they think the Uranium ship is put on for? The answer is undoubtedly to get all they can. If we put out a ship at a ten dollar rate you could justly accuse us of attacking her unfairly, because we would be using the resources of the Conference Lines on what was manifestly a ridiculous rate. But we do not do that; we have never done that. The Conference has kept its rate up almost invariably at a higher level than the Uranium Company. It is the Uranium Company that has set the pace and then squealed because something has followed.

Q. There is one case in evidence where you have gone below already? Can you say as a general thing? A. You say there is one. If you can say there is one case of evidence I am quite satisfied, because we have been fighting for three years, off and on. I won't reply to that.

Mr. Beecher: Mr. Cauty, in referring to the Uranium Steamship Line and its connection with the Canadian Northern Railway Company, may I ask whether this expression from the memorandum submitted to Congress by President Taft, in signing the Panama bill, meets with your approval: "The difficulty is that the interest of the railroad company is so much larger in its railroad, and in the maintenance of its railroad rates, than in making a profit out of the steamship line, that it can afford temporarily to run its vessels for nearly nothing in order to drive out of the business independent steamship lines, and thus obtain complete control of the shipping in the trade (through the canal), and regulate the rates according to interest of the railroad company"?

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Mr. Guiler: Objected to on the ground that no connection has been shown between the Canadian Northern Railroad and the Uranium Line.

A. Yes. I think that is always a possibility in connection with steamship lines connected with railroad companies.

By Mr. Guiler:

Q. You agree with President Taft? A. Yes, and I think it is safer to do so. 3333

Mr. Guiler: I think we must thank Mr. Cauty for the frankness with which he has answered all the questions put to him on behalf of the Government.

The Witness: I am very much obliged to you.

Mr. Crim: We are very much obliged to you, Mr. Cauty, for giving us the benefit of your experience.

- 3334 Mr. Guiler: I offer in evidence, subject to the defendants' objection to any evidence of any agreement or conference other than AA as not within the issues, the following:

Agreement on Scandinavian and Finnish westbound third business, dated Liverpool, August 15th, 1900.

Petitioner's Exhibit 713.

And also the following agreements:

Scandinavian Agreement, dated London, 3rd March, 1910.

Petitioner's Exhibit 714.

- 3335 Agreement on Scandinavian and Finnish third-class passenger business, including Iceland, dated Liverpool, April 7th, 1910.

Petitioner's Exhibit 715.

Mediterranean Conference, minutes of meeting held at Hotel Meurice, Paris, February 8th, 1909, and other minutes and by-laws thereto annexed.

Petitioner's Exhibit 716.

Agreement E. E. on first and second-class business, dated Liverpool, August 15th, 1910.

Petitioner's Exhibit 717.

- 3336 Agreement D. D. on Continental third-class business, Westbound, dated Liverpool, August 15th, 1910.

Petitioner's Exhibit 718.

Agreement C. C., dated Liverpool, August 15th, 1910, between the Allan Line, Anchor Line, Cunard Line and other lines therein mentioned.

Petitioner's Exhibit 719.

Special Agreement E, dated 1st January, 1910, and dated also Jena, July, 1910, and also Special Agreement F, thereto annexed.

Petitioner's Exhibit 720.

3337

Agreement H. 2, dated Jena, 29th May, 1908.

Petitioner's Exhibit 721.

By-laws to Agreement B., dated Jena, June 7th, 1910.

Petitioner's Exhibit 722.

By-laws to Agreement W., dated Jena, June 7th, 1910.

Petitioner's Exhibit 723.

Appendix II to Agreement W., dated Jena, August 12th, 1908.

3338

Petitioner's Exhibit 724.

Agreement X., dated London, February 6th, 1908.

Petitioner's Exhibit 725.

Appendix to Agreement X., dated Jena, December 4th, 1909.

Petitioner's Exhibit 726.

Atlantic Conference weekly statistics, December 24th to December 31st, 1909.

Petitioner's Exhibit 727.

Atlantic Conference and Russian East-Asiatic Steamship Company, weekly statistics, 24th December to the 31st of December, 1908.

3339

Petitioner's Exhibit 728.

Agreement on first cabin business, dated London, June 9th, 1898.

Petitioner's Exhibit 729.

Agreement on second cabin business, dated June 25th, 1898, with statement of rates annexed thereto.

Petitioner's Exhibit 730.



- 3340 Agreement among British Lines on second cabin business, dated 29th June, 1898, with regulations as to agents annexed.

Petitioner's Exhibit 731.

Agreement on Continental business between the British Lines, dated 1st July, 1898, Liverpool.

Petitioner's Exhibit 732.

Agreement on British business, steerage, westbound, in the form of a letter dated September 18th, 1900. with advance on third-class rates annexed, dated September 15th, 1900.

- 3341 Petitioner's Exhibit 733.

Agreement on Scandinavian and Finnish business, including Iceland, dated Liverpool, December 6th, 1898, with letter annexed, dated September 19th, 1900.

Petitioner's Exhibit 734.

Agreement on Finnish steerage business, dated Liverpool, December 6th, 1898.

Petitioner's Exhibit 735.

- 3342 Agreement dated June 15th, 1898, on British business, steerage, westbound, and with rules for agents annexed, dated July 1st, 1898, and revised to October 18th, 1900.

Petitioner's Exhibit 736.

Agreement on British business, steerage, westbound, dated Liverpool, June 15th, 1898, corrected to February 10th, 1903, with revised regulations for agents of the North Atlantic Passenger Conference, dated July 1st, 1898, and revised to October 18th, 1900.

Petitioner's Exhibit 737.

Agreement on Scandinavian and Finnish business, including Iceland, steerage, westbound, dated Liver-

pool, December 6th, 1898, and corrected to February 10th, 1903. 3343

Petitioner's Exhibit 738.

Agreement on rules and regulations for agents relating to Scandinavian business, dated December 6th, 1898, and corrected up to February 4th, 1903.

Petitioner's Exhibit 739.

Agreement R., dated London, March, 1905, agreement on first-class business.

Petitioner's Exhibit 740.

Agreement F., corrected in pencil to S., dated London, March, 1905, on second-class business. 3344

Petitioner's Exhibit 741.

Agreement, dated Cologne, May 25th, 1906, on Continental business, with Appendix A., thereto annexed.

Petitioner's Exhibit 742.

Adjourned until Thursday, September 5th, 1912.

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Third day.

Thursday, September the 5th, 1912.

Meeting pursuant to adjournment.

3345

Appearances as before.

The Government offers in evidence, subject to the defendants' objection, already stated, "G" File of Circular Letters from H. Peters to the White Star Line, said file beginning with January, 1908, No. 1, and ending with No. 455, said file also containing the letters marked "G. 692" to "G. 1103," inclusive, for January, 1910.

Petitioner's Exhibit 743.

Adjourned to the 10th of October, 1912, at 11 o'clock, in the Federal Building, New York.

3346

UNITED STATES DISTRICT COURT,  
SOUTHERN DISTRICT OF NEW YORK.

THE UNITED STATES OF AMERICA,  
Petitioner,  
against

HAMBURG - AMERIKANISCHE-  
PACKETFAHRT - ACTIEN - GE-  
SELLSCHAFT, and others,  
Defendants.

Before,  
Charles E.  
Pickett, Esq.,  
Examiner.

3347

New York, October 31, 1912.

Hearing resumed pursuant to adjournment.

Appearances:

Henry A. Wise, Esq., Goldthwaite H. Dorr, Esq.,  
Henry A. Guiler, Esq., for the Petitioner.

Messrs. Burlingham, Montgomery & Beecher; by  
Charles C. Burlingham, Esq., and Norman B. Beecher,  
Esq.; for the Anchor Line, Ltd., *et al.*

Messrs. Choate & Larocque; by Nelson Shipman,  
Esq.; for Norddeutscher Lloyd, *et al.*

Messrs. Spooner & Cotton; by J. C. Spooner, Esq.;  
for the Allan Line, *et al.*

3348

Messrs. Lord, Day & Lord; by Lucius H. Beers,  
Esq., and Allan B. A. Bradley, Esq.; for the Cunard  
Line, *et al.*

Ralph J. M. Bullowa, Esq., personally, for the Rus-  
sian East Asiatic Company, *et al.*

Mr. Guiler: Mr. Beers has produced certain agree-  
ments of the Cunard Line under subpoena, and Mr.  
Shipman has also produced correspondence of the  
North German Lloyd Line and certain agreements  
from the North German Lloyd Line, and also from  
Oelrichs & Company, under subpoena to Oelrichs &  
Company, dated the 30th day of October, 1912.

Mr. Beers: Mr. Guiler, will you let it appear on the record that so far as the Cunard Line is concerned these documents were produced at an earlier hearing and in response to a request made by the Government at that time, in response to a subpoena? 3349

Mr. Guiler: That is correct. I wish to offer these agreements in evidence which have not already been put in evidence.

Mr. Spooner: What traffic do those agreements cover?

Mr. Guiler: They cover saloon business and also steerage business. First and second cabin and steerage. 3350

Mr. Spooner: I object to any evidence in regard to the first and second cabin.

Mr. Guiler: Under our view of the case and to show up the whole situation, we feel that the first and second cabin business ought to be included also.

Mr. Spooner: As outside of any issue in this case. It is confined entirely to steerage traffic, and also so far as they do not relate to eastbound business.

Mr. Beers: Before these are filed I would like to inquire whether it is understood that any testimony taken at these subsequent hearings and any documents offered are taken and filed under the same stipulation that was entered into earlier in the case, that is, that they are subject to all objections as stated in that stipulation? 3351

Mr. Guiler: That is correct.

Mr. Spooner: Except as to the form of the question?

Mr. Beers: Except as to the form of the question.

Mr. Guiler: That is as I understand it.

Mr. Guiler: I offer the typewritten agreements which have already been marked for identification, and ask that the same number be given to them as the identification number.

3352 Mr. Spooner: Is this what was taken in Liverpool?

Mr. Guiler: No, these are produced here by the Cunard Line.

(It was agreed by counsel present that the exhibits heretofore offered for identification be offered in evidence, subject to the defendants' objection, and new numbers given them.)

Mr. Guiler: I offer in evidence Exhibit No. 315 for identification.

Marked Petitioner's Exhibit No. 744.

Also Exhibit Number 317 for identification.

3353

Marked Petitioner's Exhibit No. 745.

Also Exhibit Number 318 for identification.

Marked Petitioner's Exhibit No. 746.

Also Exhibit Number 319 for identification.

Marked Petitioner's Exhibit No. 747.

Also Exhibit Number 320 for identification.

Marked Petitioner's Exhibit No. 748.

Also Exhibit Number 323 for identification.

Marked Petitioner's Exhibit No. 749.

3354

Also Exhibit Number 324 for identification.

Marked Petitioner's Exhibit No. 750.

Also Exhibit Number 325 for identification.

Marked Petitioner's Exhibit No. 751.

Also Exhibit Number 326 for identification.

Marked Petitioner's Exhibit No. 753.

Also Exhibit Number 327 for identification.

Marked Petitioner's Exhibit 753.

Also Exhibit Number 328 for identification. 3355

Marked Petitioner's Exhibit No. 754.

Also Exhibit Number 330 for identification.

Marked Petitioner's Exhibit No. 755.

Also Exhibit Number 331 for identification.

Marked Petitioner's Exhibit No. 756.

Also Exhibit Number 332 for identification, and the addenda on 332.

Marked Petitioner's Exhibit No. 757.

Also Exhibit Number 333 for identification.

3356

Marked Petitioner's Exhibit No. 758.

Mr. Guiler: Now, I offer in evidence what is known as the beschlusse numbered from 397 to 477, furnished in German, and also a translation thereof, and ask that that be marked in evidence.

Marked Petitioner's Exhibit No. 759.

Also Agreement J, completed copy thereof.

Marked Petitioner's Exhibit No. 760.

Also Agreement K.

Marked Petitioner's Exhibit No. 761.

3357

Also Agreement E.

Marked Petitioner's Exhibit No. 762.

Also Agreement F.

Marked Petitioner's Exhibit No. 763.

Mr. Spooner: What is that?

Mr. Guiler: The second cabin business. That goes under the same objection.

Mr. Guiler: I offer in evidence Agreement H, revised.

3358

Marked Petitioner's Exhibit No. 764.

Mr. Spooner: This is not any of this that you took at Liverpool?

Mr. Guiler: No, no.

Mr. Guiler: I offer in evidence Agreement M.

Marked Petitioner's Exhibit No. 765.

Mr. Guiler: I offer in evidence also correspondence between the North German Lloyd Line and Oelrichs & Company in New York City, in 1908, as follows:

Translation of cable from Lloyd to Oelrichs & Company, dated January 7th, 1908, reading as follows: "Conference will be held with British Lines Jan. 20,

3359 London. Request also bring Winter."

Marked Petitioner's Exhibit No. 766.

Also translation of cable from Lloyd to Oelrichs & Company, dated January 8, 1908, reading as follows: "Continental Conference London, Jan. 18, preceding Conference with British Lines. Arrange presence."

Marked Petitioner's Exhibit No. 767.

Also translation of letter dated Bremen, February, 25, 1908, addressed to "Dear Mr. Schwab," and beginning with the words, "I arranged with Mr. Winter," and ending with the words, "without the co-operation of the Russian Lines," signed, "Plettenberg."

3360

Marked Petitioner's Exhibit No. 768.

Also translation of letter dated New York, March 5, 1908, addressed to the "North German Lloyd, Steerage Dept., Bremen," and beginning with the words, "We beg to acknowledge receipt of your cables of the 3rd inst.," ending with the words, "and Alfred Holt, Galveston, Texas, of same," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 769.

Also translation of letter dated New York, March 13, 1908, addressed, "North German Lloyd, Central Bureau, Bremen," ending with the words, "and Hamburg for April 11th from here," and signed, "Oelrichs & Co." 3361

Marked Petitioner's Exhibit No. 770.

Also translation of letter dated New York, March 16, 1908, addressed, "Baron von Plettenberg, Steerage Dept., Bremen," beginning with the words, "I am in receipt of your favor of the 6th inst.," ending with the words, "I should consider such an understanding as very desirable," and signed, "Gustav H. Schwab."

Marked Petitioner's Exhibit No. 771. 3362

Also translation of letter dated Bremen, March 5, 1908, and addressed, "Dear Mr. Schwab," beginning with the words, "A telegram just received here advises that the SS. 'Saratow,'" ending with the words, "in view of the competition of the Russian Lines," and signed, "Plettenberg."

Marked Petitioner's Exhibit No. 772.

Also translation of letter dated New York, March 16, 1908, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We beg to acknowledge receipt of your cable of the 12th inst.," ending with the words, "we suggest that the fast steamer rate be increased by \$2," and signed, "Oelrichs & Co." 3363

Marked Petitioner's Exhibit No. 773.

Also translation of letter dated New York, March 10, 1908, addressed, "Baron von Plettenberg, Steerage Dept., North German Lloyd, Bremen," beginning with the words, "I beg leave to acknowledge the receipt of your valued favor of February 25th," ending with the words, "would clear the situation not only in Europe, but here as well," and signed, "Gustav H. Schwab."



3364

## Marked Petitioner's Exhibit No. 774.

Also translation of letter dated Bremen, March 18, 1908, addressed, "My dear Mr. Schwab," beginning with the words, "I am enclosing herewith the two last statements in regard to the pool status," ending with the words, "posted in regard to the result of these negotiations," and signed, "Plettenberg."

## Marked Petitioner's Exhibit No. 775.

3365

Also transaction of letter dated New York, March 21, 1908, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of the 20th inst.," ending with the words, "and changed our price list accordingly," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit No. 776.

Also translation of letter, dated New York, March 23, 1908, addressed, "North German Lloyd, Central Bureau, Bremen," beginning with the words, "We confirm our respects of the 13th inst.," ending with the words, "Rotterdam and Halifax on the part of the New York & Continental S. S. Co.," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit No. 777.

3366

Also translation of cable from Lloyd to Oelrichs & Company, dated March 24, 1908, beginning with the words, "Advance outward rate New York regular," and ending with the words, "if in direct competition with them."

## Marked Petitioner's Exhibit No. 778.

Also translation of letter, dated New York, March 27, 1908, addressed "North German Lloyd, Steerage Department, Bremen," beginning with the words, "We beg to acknowledge receipt of your cable of the 24th inst.," ending with the words, "As no bookings for

them have yet been made," and signed "Oelrichs & Co." 3367

Marked Petitioner's Exhibit No. 779.

Also translation of letter, dated New York, March 30, 1908, addressed, "Baron von Plettenberg, Steerage Dept., Bremen," beginning with the words "I am in receipt of your favor of the 18th inst." ending with the words "against our reduction of \$24 on SS. "Barbarossa, April 9th," and signed, "Gustav H. Schwab."

Marked Petitioner's Exhibit No. 780.

Also translation of letter, dated New York, March 30, 1908, addressed, "North German Lloyd, Steerage Department, Bremen," beginning with the words, "We beg to acknowledge receipt of your telegram of today," ending with the words, "The Russian East Asiatic S/S Co. or the New York & Continental Line," and signed "Oelrichs & Co" 3368

Marked Petitioner's Exhibit No. 781.

Also translation of letter, dated New York, April 3, 1908, addressed, "North German Lloyd, Central Bureau, Bremen," beginning with the words, "We beg leave to acknowledge receipt of your valued favor of March 20th," ending with the words, "Seydlitz," and confirm our cable to that effect, reading," and signed, "Oelrichs & Co." 3369

Marked Petitioner's Exhibit No. 782.

Also translation of letter, dated New York, April 3, 1908, addressed, "North German Lloyd, Passenger Department, Bremen," beginning with the words, "We confirm our telegram of the first inst.," and ending with the words, "And must then decide what measure we shall take," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 783.

- 3370 Also translation of letter, dated New York, April 7, 1908, addressed, "North German Lloyd Passenger Department, Bremen," beginning with the words, "We confirm our favor of the 3rd inst., and our telegram of the 4th inst," ending with the words quoted, "'Seydlitz' azarole (April 23rd.)," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 784.

- 3371 Also translation of letter, dated Bremen, April 13, 1908, addressed, "My dear Mr. Schwab," beginning with the words, "I confirm with thanks, your esteemed favor of the 30th ult.," ending with the words, "Atlantic Conference *pro rata* their participations," and signed, "Plettenberg."

Marked Petitioner's Exhibit No. 785.

Also translation of letter, dated New York, April 13, 1908, addressed, "Administration of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We confirm our cable and our favor of the 7th inst.," ending with the words, "And gladly note that you agree to this," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 786.

- 3372 Also letter (translation), dated, New York, April 14, 1908, addressed, "Management of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "The high rate of \$40 has now been applied," ending with the words, "First makes itself felt in the high prices," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 787.

Also letter (translation), dated New York, April 20, 1908, addressed, "Management of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We confirm our favor of the 14th inst.,"

ending with the words, "Are at a disadvantage with the Russian Lines," and signed, "Oelrichs & Co." 3373

Marked Petitioner's Exhibit No. 788.

Also letter (translation), dated, New York, April 21, 1908, addressed, "Management of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We confirm our favor of yesterday," ending with the words, "Of course, read '\$40 Rate,'" and signed "Oelrichs & Co."

Marked Petitioner's Exhibit No. 789.

Also translation of letter, dated New York, April 21, 1908, addressed, "Baron von Plettenberg, Steerage Dept., Bremen, Germany," beginning with the words, "I beg leave to acknowledge receipt of your favor of the 13th inst.," ending with the words, "The two Russian lines during next month," and signed, "Gustav H. Schwab." 3374

Marked Petitioner's Exhibit No. 790.

Also translation of letter, dated New York, April 27, 1908, addressed, "My dear Mr. Schwab," beginning with the words, "I confirm, with best thanks, your kind letters, addressed to me, of April 13th and 14th," ending with the words, "lists received to Landy in Rotterdam," and signed, "Plettenberg."

Marked Petitioner's Exhibit No. 791.

Also translation of letter, dated New York, April 29th, 1908, addressed, "Management of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We beg to acknowledge receipt of your cable today's date," ending with the words "Made no reduction in our regular eastbound rate," and signed "Oelrichs & Co." 3375

Marked Petitioner's Exhibit No. 792.

Also translation of cable, dated May 2, 1908, from Oelrichs & Company, to Lloyd, Bremen, beginning

- 3376 with the words, "Refer to your telegram of 29th ultima," and ending with the words, "And more strongly recommend meeting this competition."

Marked Petitioner's Exhibit No. 793.

Also translation of letter, dated, New York, May 4, 1908, addressed, "Management of the North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We hand you enclosed Continental Conference Minutes, No. 172," ending with the words, "We will shortly write you in a separate letter," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 794.

- 3377 Also translation of letter, dated Bremen, May 4, 1908, addressed, "My dear Mr. Schwab," beginning with the words, "I thank you for your valued favor of April 21st, last," ending with the words, "Status of the N. D. L. V., of May 1st," and signed, "Plettenberg."

Marked Petitioner's Exhibit No. 795.

Also translation of letter, dated Bremen, May 4, 1908, addressed, "Mr. H. Peters, Jena," beginning with the words, "After having transported about 4700 passengers eastbound," ending with the words, "As the best solution of the question," and not signed.

- 3378 Marked Petitioner's Exhibit No. 796.

Also translation of cable from Lloyd to Oelrichs & Company, dated, May 5, 1908, reads as follows: "It is proposed by Atlantic Conference disqualify all agents handling continental business to Medit. Lines. Telegraph your opinion."

Marked Petitioner's Exhibit No. 797.

Also translation of cable from Olerichs & Company to Lloyd, Bremen, dated, May 5th, 1908, beginning with the words, "Refer to your telegram of

5th instant," and ending with the words, "refer to Continental Conference rules minutes." 3379

Marked Petitioner's Exhibit No. 798.

Also translation of letter, dated Bremen, May 5, 1908, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "We just received your cable, from which we note that you have reduced the eastbound rate," ending with the words, "Will undoubtedly not occur in the very near future," and signed, "North German Lloyd, Steerage Dept., per Freyer."

Marked Petitioner's Exhibit No. 799.

Also translation of letter, dated, New York, May 9, 1908, addressed, "Management of the North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We hand you enclosed Continental Conference Complaint Committee Report, No. 154," ending with the words, "Must be considered" and signed, "Oelrichs & Co." 3380

Marked Petitioner's Exhibit No. 800.

Also translation of letter, dated New York, May 22, 1908, addressed, "Baron von Plettenberg, Steerage Dept., Bremen," beginning with the words, "I am in receipt of your favor of the 4th inst.," ending with the words, "for sending me statement of the pool status," and signed, "Gustav H. Schwab." 3381

Marked Petitioner's Exhibit 801.

Also translation of letter, dated May 22, 1908, addressed, "Management of the North German Lloyd, Passenger Dept., Bremen," beginning with the words, "In reply to your today's cable," ending with the words, "And, not least, the Italian Lines," and signed "Oelrichs & Co."

Marked Petitioner's Exhibit No. 802.

- 3382 Also translation of cable, dated, New York, May 22, 1908, addressed, "Wiegand, Carlton, London," beginning with the words, "All Atlantic Conference lines except Cunard," ending with the words, "Believe control now important as competitive rates," and signed "Schwab."

Marked Petitioner's Exhibit No. 803.

- 3383 Also translation of cable, dated New York, May 22, addressed, "Wiegand, Carlton, London," beginning with the words, "Conferences relative agreement now occurring separately," ending with the words, "Can matter be considered and remedy suggested?" and signed, "Schwab."

Marked Petitioner's Exhibit No. 804.

Also translation of cable, dated, May 25, 1908, addressed, "Wiegand, Carlton, London," beginning with the words, "Whitestar makes condition that if any Meditline enters," ending with the words, "For rates in such event," and signed, "Schwab."

Marked Petitioner's Exhibit No. 805.

- 3384 Also translation of cable, dated, May 25, 1908, addressed, "Wiegand, Carlton, London," beginning with the words, "Do not agree your view general reduction," ending with the words, "Besides stimulating business," and signed, "Schwab."

Marked Petitioner's Exhibit No. 806.

Also translation of letter, dated, New York, May 25, 1908, addressed, "Management of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of the 23rd inst.," ending with the words, "And wired A. Schumacher & Co., Baltimore, again of the reduction," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 807.

Also translation of cable, dated May 29, 1908, from Lloyd to Oelrichs & Company, beginning with the words, "Referring to Sanford's cable to Peters," and ending with the words, "Render Cunard Line liable, Breach of Contract." 3385

Marked Petitioner's Exhibit No. 808.

Also translation of cable, dated, May 30, 1908, from Lloyd to Oelrichs & Company, beginning with the words, "Article twenty, by-laws Pool Agreement," and ending with the words, "For new competitors under penalty disqualification."

Marked Petitioner's Exhibit No. 809.

Also translation of cable, dated June 6, 1908, addressed, "Wiegand, Lloyd, Bremen," beginning with the words, "Had long interview Vernon Brown," ending with the words, "Unless receive contrary instructions," and signed, "Helmolt." 3386

Marked Petitioner's Exhibit No. 810.

Also translation of letter, dated New York, June 10, 1908, addressed, "Management of the North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We beg to acknowledge receipt of your today's cable," ending with the words, "The N. D. L. V., or the Continental and British Lines," and signed, "Oelrichs & Co." 3387

Marked Petitioner's Exhibit No. 811.

Also translation of letter, dated, Bremen, July 2, 1908, addressed, "Mr. Gustav H. Schwab, New York," beginning with the words, "We received the final prints of Agreements H2, X, Z," ending with the words, "As soon as we receive the same," and signed, "North German Lloyd, Passenger Dept., V. Helmolt."

Marked Petitioner's Exhibit No. 812.



- 3388 Also translation of cable from Lloyd to Oelrichs & Company, dated July 4, 1908, reading as follows: "Cable Lloyd steamers selected competitive steamers, July on account of provisions."

Marked Petitioner's Exhibit No. 813.

Also translation of cable from Lloyd to Oelrichs & Company, dated July 9, 1908, reading as follows: "Reduce prepaid rate to \$34.50 plus headtax New York express."

Marked Petitioner's Exhibit No. 814.

- 3389 Also a translation, dated Bremen, July 9th, 1908, addressed to, "Mr. Gustav H. Schwab, New York," reads as follows: "Enclosed we beg leave to hand you one copy of agreements V and W. North German Lloyd."

Marked Petitioner's Exhibit No. 815.

Also translation of letter, dated, New York, July 25, 1908, addressed, "North German Lloyd, Passage Dept., Bremen," beginning with the words, "In the absence of our Mr. Gustave H. Schwab," ending with the words, "Up to date only proofs and corrected proofs," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 816.

- 3390 Also translation of letter, dated, New York, August 8, 1908, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "As previously reported to you, SS 'Barbarossa,' 6th inst.," ending with the words, "To the refund of the difference to the passengers," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 817.

Also translation of letter, dated, Bremen, August 22, 1908, addressed, "Dear Mr. Schwab," beginning with the words, "I hope you have arrived in New

York in good health and spirits," ending with the words, "Will probably be entered into at the London Conference," and signed, "Heineken." 3391

Marked Petitioner's Exhibit No. 818.

Also translation of cable, dated August 26, 1908, addressed, "Schwab, Oelrichs, N. Y.," beginning with the words, "In Conference meeting Russian East Asiatic," ending with the words, "Leave for Bremen," and signed "Wiegand."

Marked Petitioner's Exhibit No. 819.

Also translation of letter, dated, New York, August 28, 1908, addressed, "Director General Wiegand, North German Lloyd, Bremen," beginning with the words, "I beg leave to acknowledge receipt of your cable of the 26th inst," ending with the words, "A large guaranteed sum of the part of each line," and signed, "Gustav H. Schwab." 3392

Marked Petitioner's Exhibit No. 820.

Also letter (translation), dated Bremen, August 28, 1908, addressed, "Dear Mr. Schwab," beginning with the words, "I wrote you on the 22nd inst.," ending with the words, "Nevertheless, I am very much obliged to him for his attention," and signed, "Heineken."

Marked Petitioner's Exhibit No. 821.

3393

Also translation of letter, dated Bremen, September 1, 1908, addressed, "My dear Mr. Schwab," beginning with the words, "After having again returned here from my trip from Paris," ending with the words, "In Carlsbad to adjust the question," and signed, "Plettenberg."

Marked Petitioner's Exhibit No. 822.

Also translation of letter, dated, September 2nd, 1908, addressed, "Director Heineken, North German

- 3394 Lloyd, Bremen," beginning with the words, "I am in receipt of your favor of Aug. 22nd," ending with the words, "The Hungarian question with the Cunard Line," and signed, "Gustav H. Schwab."

Marked Petitioner's Exhibit No. 823.

Also translation of letter, dated September 4, 1908, addressed, "North German Lloyd, Passage Dept., Bremen," beginning with the words, "As per cable of the Pool Secretary," ending with the words, "The Russian American Line to this Conference," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 824.

- 3395 Also translation of letter, dated New York, September 9, 1908, addressed, "Baron von Plettenberg, North German Lloyd, Bremen," beginning with the words, "I am in receipt of your favor of the 1st inst," ending with the words, "the negotiations with the Italian Lines with great interest," and signed, "Gustav. H. Schwab."

Marked Petitioner's Exhibit No. 825.

- 3396 Also translation of cable addressed New York, September 16, 1908, Wiegand, Palast Hotel, Berlin, beginning with the words, "Telegrams received. Held meeting with Ital lines," ending with words, "This would be dangerous precedent for future," and signed, "Schwab."

Marked Petitioner's Exhibit No. 826.

Also translation of cable, dated New York, September 17, 1910, addressed, "Wiegand, Palast Hotel, Berlin," beginning with the words, "All lines now prepared to act," and ending with the words, "Who have not received cables," and signed, "Schwab."

Marked Petitioner's Exhibit No. 826 1/2.

Also translation of letter, dated New York, Sept. 26, 1908, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of today," and ending with the words, "Messrs. A. Schumacher & Co., the contents of your cable," and signed "Oelrichs & Co." 3397

Marked Petitioner's Exhibit No. 827.

Also translation of letter, dated, New York, Oct. 16, 1908, addressed, "Management of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "In order to give better and quicker expression to the agreements," ending with the words, "We do not believe they require any further explanation," and signed, "Oelrichs & Co." 3398

Marked Petitioner's Exhibit No. 828.

Also translation of cable from Lloyd to Oelrichs & Co., dated October 24, 1908, beginning with the words, "Conference made Pool agreement with new Scandinavian combine," ending with the words, "Most lines will quote headtax separately."

Marked Petitioner's Exhibit No. 829.

Also translation of letter, dated, New York, Nov. 2, 1908, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," ending with the words, "Account of tomorrow being election day, on Wednesday morning," and signed, "Oelrichs & Co." 3399

Marked Petitioner's Exhibit No. 830.

Also translation of letter, dated New York, November 11, 1908, addressed to "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We confirm the receipt of your today's cable," and ending with the words, "Messrs. A. Schumacher &

- 3400 Co., Baltimore, and Mr. Alfred Holt, Galveston," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit, No. 831.

Also copy of letter, dated New York, December 4, 1908, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We beg to acknowledge receipt of your telegram of today," and ending with the words, "Messrs. A. Schumacher and Co., Baltimore, and Mr. Alfred Holt, Galveston," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 832.

- 3401 Also translation of letter, dated New York, February 18th, 1909, addressed, "North German Lloyd, Steerage Passenger Department, Bremen," beginning with the words, "We acknowledge receipt of today's telegram," and ending with the words, "To our agents tomorrow by circular," signed, "Oelrichs & Co."

Marked Petitioner's Exhibit 833.

Also translation of letter, dated Bremen, February 19th, 1909, addressed, "My dear Mr. Schwab," beginning with the words, "I acknowledge, with thanks, receipt of your esteemed letter of the 9th inst.," and ending with the words, "whom I thank for the file promised me, I am." Signed "Plettenberg."

3402

Marked Petitioner's Exhibit No. 834.

Also translation of letter, dated, New York, March 5th, 1909, addressed, North German Lloyd, Steerage Department, Bremen," beginning with the words, "As you can see from the enclosed post card of the White Star Line," and ending with the words, "As well as from England, Finland and Scandinavia." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 835.

Also translation of letter, dated, New York, March 5th, 1909, addressed, "Dear Mr. von Plettenberg,"

beginning with the words, "I beg leave to acknowledge receipt of your valued favor of February 19th," and ending with the words, "Which I have noted, and remain, with best regards." Signed, "Gustav H. Schwab." 3403

Marked Petitioner's Exhibit No. 836.

Also translation of letter, dated Bremen, March 29th, 1909, addressed, "Mr. Gustav H. Schwab, New York," beginning with the words, "The Paris negotiations did not have much positive result." And ending with the words, "Through negotiations in regard to the amount of the compensation, etc." Signed, "V. Helmolt." 3404

Marked Petitioner's Exhibit No. 837.

Also translation of letter, dated, Bremen, March 30th, 1909, addressed, "Dear Mr. Schwab," beginning with the words, "Returned from Paris, I am glad to be able to report to you that we have advanced quite a step with the Cunard Line," and ending with the words, "in view of the eastbound figures, which could hardly be called unimportant." Signed, "Heineken."

Marked Petitioner's Exhibit No. 838.

Also translation of letter, dated New York, April 9th, 1909, addressed, "Director Heineken, North German Lloyd, Bremen," beginning with the words, "I acknowledge receipt of your favor of March 30th," and ending with the words, "The representatives of the Steamship companies here are generally favorably disposed toward an increase of \$3. I am, with best regards." Signed, "Gustav H. Schwab." 3405

Marked Petitioner's Exhibit No. 839.

Also translation of letter, dated, New York, April 12th, 1909, addressed, "Director C. von Helmolt, North German Lloyd, Bremen," and beginning with

- 3406 the words, "I beg leave to acknowledge receipt of your valued favor of March 29th," and ending with the words, "so that you can send it to the Cunard Line if you desire. I am, with best regards." Signed, "Gustav H. Schwab."

Marked Petitioner's Exhibit No. 840.

- 3407 Also translation of letter, dated Bremen, April 21st, 1909, addressed, "Mr. Gustav H. Schwab, c/o Oelrichs & Co., New York," beginning with the words, "I wrote you last on the 15th inst., and received in the meantime your kind letters of the 9th and 12th inst.," and ending with the words, "And I am glad that the endeavors of the 'Small Committee' have been successful in this regard." Signed, "Heineken."

Marked Petitioner's Exhibit No. 841.

Also translation of letter, dated, Bremen, April 21st, 1909, addressed, "Messrs. Oelrichs & Co., New York," and beginning with the words, "In conformity with A. C. Resolution, 106, the steerage rate for nursing infants, beginning with July 1st," and ending with the words, "Messrs. Schumacher & Co., and Alfred Holt, were notified direct by us." Signed, N. G. L."

Marked Petitioner's Exhibit No. 842.

- 3408 Also letter, dated, New York, April 27th, 1909, addressed, "North German Lloyd, Steerage Passenger Department, Bremen," beginning with the words, "For routine's sake we beg to acknowledge receipt of your cable of the 14th inst.," and ending with the words, "As you will have seen from the circulars and price lists which you have received in the meantime." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 843.

Also translation of letter, dated, Bremen, June 10th, 1909, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "A short time ago the ques-

tion of the Cancellation fee for Prepaids was taken up in the Atlantic Conference," and ending with the words, "We would thank you to let us know how the matter has been settled there." Signed, "N. G. L." 3409

Marked Petitioner's Exhibit No. 844.

Also translation of letter, dated, Bremen, July 12th, 1909, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "We beg to call your attention to the fact we must account for those steerage passengers," and ending with the words, "Which call for passengers living in the above-mentioned countries, respectively territories." Signed, "North German Lloyd." 3410

Marked Petitioner's Exhibit 845.

Also translation of letter, dated New York, August 2nd, 1909, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We beg to acknowledge receipt of your favor of July 21st," and ending with the words, "We will advise you of the result." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 846.

Also translation of letter, dated, New York, August 16th, 1909, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your telegram of the 15th inst.," and ending with the words, "And accordingly reduce our prepaid rate for the mail steamer from \$41 to \$38.50, plus the head tax of \$4." Signed, "Oelrichs & Co." 3411

Marked Petitioner's Exhibit No. 847.

Also translation of letter, dated Bremen, August 26th, 1909, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "As the steerage passengers, who are transported via our New York-Mediterranean Line must be included," and ending



- 3412 with the words, "For steerage via New York-Mediterranean Line in view of the double charge." Signed "N. G. L."

Marked Petitioner's Exhibit No. 848.

Also translation of letter, dated, Bremen, August 28th, 1909, addressed, "Dear Mr. Schwab," beginning with the words, "I beg to submit herewith the information promised you," and ending with the words "Against the New York mail steamers would be established." Signed, "Plettenberg."

Marked Petitioner's Exhibit 848 1/2.

- 3413 Also translation of letters, dated, New York, Sept. 6th, 1908, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your favor of August 26th," and ending with the words, "Under the conditions prevailing here this cannot be changed." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 849.

- 3414 Also translation of letter, dated New York, Sept. 11th, 1909, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "Which we immediately communicated to Messrs. A. Schumacher & Co., Baltimore, by telegram and letter." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 850.

Also translation of letter, dated Bremen, September 22nd, 1909, addressed, "Messrs. Oelrichs & Co., New York," and beginning with the words, "It would please us very much if you would use your endeavors that we are also considered," and ending with the words, "the steamers of the Minus Parties must be considered first." Signed, "N. G. L."

Marked Petitioner's Exhibit No. 851.

Also translation of cable from Oelrichs & Co., dated Sept. 25th, 1909, addressed, "Lloyd, Bremen," reading as follows: "Refer to our letter of the 16th ultimo; tariffs issued August 16th cancelled withdrawn owing to an error reprinted September 14th." 3415

Marked Petitioner's Exhibit No. 852.

Also translation of letter, dated, Bremen, Sept. 27th, 1909, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "We confirm receipt of your yesterday's cable," and ending with the words, "We must urgently beg you to see to it that such mistakes are not made in the future." Signed, "N. G. L." 3416

Marked Petitioner's Exhibit No. 853.

Also translation of letter, dated New York, October 4th, 1908, addressed, "Management of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "At the time of our difference with the Italian Line in the spring and summer of 1908," and ending with the words, "On account of the fact that the difference between the lines had subsequently been adjusted." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 854.

Also translation of letter, dated, New York, Oct. 7th, 1909, addressed, "Management of the North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your favor of Sept., 22nd," and ending with the words, "Whenever the opportunity offers we will, of course, remember your request." Signed, "Oelrichs & Co." 3417

Marked Petitioner's Exhibit No. 855.

Also translation of letter, dated Bremen, October 13th, 1909, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "We received your esteemed favor of the 4th inst.," and ending with the

- 3418 words, "Will now wait and see if they approach us in this matter." Signed, "North German Lloyd."

Marked Petitioner's Exhibit No. 856.

Also translation of letter, dated, New York, October 27th, 1909, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "Our own corrected price circulars will be sent to our agents tomorrow." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 837.

- 3419 Also translation of letter, dated, New York, October 30th, 1909, addressed, "Management of North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your favor of the 13th inst.," and ending with the words, "Only incite these agents to further steps and measures. We await your reply." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 858.

- 3420 Document, dated, New York, October 30th, 1909, headed, "Continental Conference," beginning with the words, "Fines imposed by Continental Conference Lines upon certain of their agents during 1908, for selling Continental tickets eastbound via Genoa, etc."

Marked Petitioner's Exhibit No. 859.

Also translation of letter, dated New York, November 5th, 1909, addressed, "Management of North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We hand you enclosed two copies of the Minutes of the American Atlantic Conference, Meeting July 29th, No. 15," and ending with the words, "The contents hardly require any further explanation." Signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 860.

Also translation of letter, dated, New York, November 12th, 1909, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We acknowledge receipt of your yesterday's cable," and ending with the words, "Under prevailing conditions and hindered the entire prepaid business for our steamers." Signed, "Oelrichs & Co." 3421

Marked Petitioner's Exhibit No. 861.

Also translation of letter, dated, Bremen, November 29th, 1909, addressed, "Mr. Gustav H. Schwab, New York," beginning with the words, "I returned on Saturday from the Atlantic Conference in London," and ending with the words, "So that it is possible that the matter will yet be adjusted." Signed, "Heineken." 3422

Marked Petitioner's Exhibit No. 862.

Also translation of letter, dated, Bremen, December 13th, 1909, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "The position per December 7th, is as follows," etc. Signed, "North German Lloyd, Steerage Department, (signed) Seyde."

Marked Petitioner's Exhibit No. 863.

Also translation of letter, dated Bremen, December 21st, 1909, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "The position per December 15th, is as follows," etc. Signed, "North German Lloyd, Steerage Department (signed) Plettenberg." 3423

Marked Petitioner's Exhibit No. 864.

Also translation of letter, dated, Bremen, December 31st, 1909, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "The position for December 23, 1909, will be as follows," etc. Signed, "North German Lloyd, Steerage Department (signed) V. Vignau."

3424

## Marked Petitioner's Exhibit No. 865.

Also translation of letter, dated, New York, January 3, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledging receipt of your cable of December 31st," and ending with the words, "Messrs. A. Schumacher & Co., Baltimore, both by letter and wire," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit 866.

Also copy of a cablegram, dated, January 18th, 1910, addressed to Lloyd Bremen, reading, "What do you propose Third Cabin Rates Eastbound Westbound George Washington?" and not signed.

3425

## Marked Petitioner's Exhibit No. 867.

Also translation of letter, dated, New York, January 20, 1910, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "In our cable of the 18th inst.," and ending with the words, "In view of the increase in the steerage rate for the Mail Steamers, and await your reply hereto," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit No. 868.

Also translation of letter, dated, New York, January 24, 1910, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We confirm our cable of the 18th inst.," and ending with the words, "Plus head tax from there for the III Cabin on 'George Washington,'" and signed, "Oelrichs & Co."

3426

## Marked Petitioner's Exhibit No. 869.

Also translation of letter, dated Bremen, 24th January, 1910, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "In reply to your cable of the 18th inst we wired you as follows," and ending with the words, "We would request you to note

accordingly on the Prepaid Rate," and signed, "N. G. L." 3427

Marked Petitioner's Exhibit No. 870.

Also translation of letter, dated, New York, Jan. 31, 1910, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of today," and ending with the words, "Cabin Prepaid Rate for 'George Washington,' from \$46 to \$43.50, plus the head tax," and signed "Oelrichs & Co."

Marked Petitioner's Exhibit No. 871.

Also translation of letter, dated, New York, February 2, 1910, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We acknowledge receipt of your favor of Jan. 24th," and ending with the words, "In the III Cabin have been stopped by us and forbidden owing to former advice," and signed, "Oelrichs & Co." 3428

Marked Petitioner's Exhibit No. 872.

Also translation of letter dated, "New York. March 11, 1910," addressed "North German Lloyd, Passage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "with an outward steerage rate of \$27, less \$2 Commission," and signed "Oelrichs & Co." 3429

Marked Petitioner's Exhibit No. 873.

Also translation of letter dated Bremen, May 6th, 1910, addressed "Messrs. Oelrichs & Co., New York," beginning with the words, "Director Heineken, who is at present in Paris attending various meetings," and ending with the words, "We shall communicate with you as soon as his answer comes to hand," and signed, "N. G. L."

3430

## Marked Petitioner's Exhibit 874.

Also translation of letter dated New York, May 6, 1910, addressed, "The North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "by wire of the part they are interested in and also wrote them," and signed "Oelrichs & Co."

## Marked Petitioner's Exhibit 875.

3431

Also translation of letter dated Bremen, May 9, 1910, addressed "Messrs. Oelrichs & Co., New York," and beginning with the words, "We cabled you today as follows," and ending "III Class of SS 'George Washington,' for the following trips at the increased rate," and signed, "N. G. L."

## Marked Petitioner's Exhibit No. 876.

Also translation of letter dated, "New York, May 20, 1910," addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your favors of the 6th and 9th inst.," and ending with the words, "To fill the third cabin of SS 'George Washington,' at the advanced rate," and signed "Oelrichs & Co."

3432

## Marked Petitioner's Exhibit No. 877.

Also translation of letter dated, "New York, June 8, 1910," addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "Quite a number of agents will only take advantage of the reduction to change the tickets already sold at \$27 to \$24," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit No. 878.

Also translation of letter dated, "New York, June 16, 1910," addressed, "North German Lloyd, Steerage

Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cables," and ending with the words, "And will, accordingly, quote a steerage rate for SS "Main June 23rd from here to Bremen, of \$27," and signed, "Oelrichs & Co."

3433

Marked Petitioner's Exhibit No. 879.

Also translation letter dated, "New York, July 2, 1910," addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "And the warm weather, the greater number of offices and, therefore, the printers also, have closed today," and signed, "Oelrichs & Co."

3434

Marked Petitioner's Exhibit No. 880.

Also translation letter dated, "New York, July 6, 1910," addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "The reduction comes too late to communicate the same today to the Agents by means of circulars," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 881.

Also translation of letter dated, "New York, July 15, 1910," addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "And have, therefore, put in force the reduced rate of \$27 for SS "Bremen," July 21st from here to Bremen," and signed, "Oelrichs & Co."

3435

Marked Petitioner's Exhibit 882.

Mr. Shipman: At this point, I desire to offer in evidence, translation of letter dated Bremen, July 18, 1910, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "We have decided to reduce the III Class Eastbound rate," and ending with



3436 the words, "We await your acknowledgement of receipt and remain," and signed, "N. G. L."

Marked Defendant's Exhibit No. 1.

Mr. Guiler: I also offer in evidence translation of letter dated New York, July 19, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of the 12th inst.," and ending with the words, "For SS 'Bremen,' July 21st, from here to Bremen," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit 883.

3437 Mr. Shipman: At this point, I desire to offer in evidence, translation of letter dated New York, July 26, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your favor of the 18th inst.," and ending with the words, "In order to keep step with the Hamburg steamers," and signed, "Oelrichs & Co."

Marked Defendant's Exhibit 2.

3438 Mr. Guiler: I also offer in evidence translation of letter dated New York, July 26, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of today," and ending with the words, "Prinz Friedrich Wilhelm, August 4th from here to \$27," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 884.

Also translation of letter dated New York, August 1, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We confirm receipt of today's cable," and ending with the words, "By telegram as also circular of this," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit No. 885.

3439

Also translation of letter dated New York, Aug. 17, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "Enclosing the usual circular, and remain," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit No. 886.

Also translation of letter dated New York, August 18, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "And have only followed the example of other lines, which again include Messina," and signed, "Oelrichs & Co."

3440

## Marked Petitioner's Exhibit No. 887.

Also translation of letter dated New York, August 23, 1910, addressed, "North German Lloyd Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of the 23rd inst.," and ending with the words, "We advised our agents of this reduction, enclosing the usual circulars, and remain," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit No. 888.

3441

Also translation of letter dated New York, Aug. 25, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of today," and ending with the words, "And Bremen to Philadelphia to \$34," and signed, "Oelrichs & Co."

## Marked Petitioner's Exhibit No. 889.

Also translation of letter dated New York, August 29, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We

- 3442 acknowledge receipt of your today's cable," and ending with the words, "Circulars would have no more effect," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 890.

Also translation of letter dated New York, Sept. 9, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "And the III Class Rate to \$40 per person," and signed "Oelrichs & Co."

Marked Petitioner's Exhibit No. 891.

- 3443 Also translation of letter dated New York, Sept. 19, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "As there is a prospect of our eventually receiving," and ending with the words, "We cannot demand the full steerage space," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 892.

Also translation of letter dated New York, Oct. 5, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "In looking through the Eastbound," and ending with the words, "We mention this in the way of routine, and remain," and signed, "Oelrichs & Co."

3444

Marked Petitioner's Exhibit No. 893.

Also translation of letter dated New York, Oct. 6, 1910, addressed, "North German Lloyd, Passenger Dept., Bremen," and ending with the words, "Baltimore and Mr. Alfred Holt, Galveston, of this. We remain," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 894.

Also translation of letter dated Bremen, October 7, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "Complement our reduction

of the steerage rate for fast steamers," and ending with the words, "As this has not been done hitherto," and signed, "N. G. L." 3445

Marked Petitioner's Exhibit No. 895.

Also translation of letter dated New York, Oct. 7, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "Plus head tax," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 896.

Also translation of letter dated New York, Oct. 7, 1910, addressed, "North German Lloyd, Passenger Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable today," and ending with the words, "And its predecessors," and signed, "Oelrichs & Co." 3446

Marked Petitioner's Exhibit No. 897.

Also translation of letter dated New York, Oct. 11, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We confirm our favor of Oct. 7th, and acknowledge receipt of your today's cable," and ending with the words, "The competition is offering a price of \$25 less \$3 and \$4," and signed, "Oelrichs & Co." 3447

Marked Petitioner's Exhibit No. 898.

Also a translation of letter dated New York, Oct. 18, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," and beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "And also publish the same in our price list," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 899.

- 3448 Also a translation of letter dated New York, Oct. 22, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," and beginning with the words, "We acknowledge receipt of your cable of the 21st inst.," and ending with the words, "Which we immediately communicated to the interested agents," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 900.

- 3449 Also a translation of letter dated New York October 24, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of today's date," and ending with the words, "Which we immediately communicated to the agents interested," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 901.

Also a translation of a letter dated New York, October 26, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your cable of the 26th inst.," and ending with the words, "Philadelphia and Galveston to \$31.50. We remain," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 902.

- 3450 Also a translation of letter dated New York, Nov. 1, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," beginning with the words, "We acknowledge receipt of your today's cable," and ending with the words, "Which we immediately communicated to the agents interested," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 903.

Also a translation of letter dated Bremen, Nov. 17, 1910, addressed, "Messrs. Oelrichs & Co., New York," beginning with the words, "We beg to advise

that in view of our pool," and ending with the words, 3451  
 "For the present, we wish to continue the rate of  
 \$39."

Marked Petitioner's Exhibit No. 904.

Also a translation of letter dated New York, Nov.  
 22, 1910, addressed, "North German Lloyd, Passen-  
 ger Dept., Bremen," and beginning with the words,  
 "In looking through your prospectus of Oct. 27th,"  
 and ending with the words, "So that we can change  
 our price list accordingly," and signed, "Oelrichs &  
 Co."

Marked Petitioner's Exhibit No. 905.

Also translation of letter dated New York, Nov. 3452  
 25, 1910, addressed, "North German Lloyd, Steerage  
 Dept., Bremen," and beginning with the words, "We  
 acknowledge receipt of your favor of the 17th inst.,"  
 and ending with the words, "For the present, on ac-  
 count of your position. We remain," and signed,  
 "Oelrichs & Co."

Marked Petitioner's Exhibit No. 906.

Also translation of letter dated New York, Nov.  
 25, 1910, addressed, "North German Lloyd, Steer-  
 age Dept., Bremen," and beginning with the words,  
 "We refer to our favor of October 4th, 1909," and 3453  
 ending with the words, "Lines to refuse the refund of  
 the penalties to the agents, on the part of the Con-  
 tinental Conference," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 907.

Also translation of letter dated New York, Dec.  
 3, 1910, addressed, "North German Lloyd, Steerage  
 Dept., Bremen," and beginning with the words, "We  
 acknowledge receipt of your cable of today," and end-  
 ing with the words, "Both by wire and letter," and  
 signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 908.

- 3454 Also translation of letter dated Bremen, Dec. 5, 1910, addressed, "Messrs. Oelrichs & Co., New York," and beginning, "We received your telegram as also your letter of November 25th," and ending with the words, "That the back payments of this firm have been collected by the Conference," and signed, "N. G. L."

Marked Petitioner's Exhibit No. 909.

- 3455 Also a translation of letter dated Bremen, Dec. 6, 1910, addressed, "Messrs. Oelrichs & Co., New York," and beginning with the words, "In reply to your favor of the 22nd ulto.," and ending with the words, "As is also quoted by the Hapag," and signed, "N. G. L."

Marked Petitioner's Exhibit No. 910.

Also translation of letter dated New York, Dec. 16, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," and beginning with the words, "We acknowledge receipt of your favor of the 5th inst.," and ending with the words, "To establish a competition so serious for us," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 911.

- 3456 Also a translation of a letter dated New York, Dec. 30, 1910, addressed, "North German Lloyd, Steerage Dept., Bremen," and beginning with the words, "We confirm receipt of your yesterday's telegram," and ending with the words, "Proceeds on its trip on Tuesday," and signed, "Oelrichs & Co."

Marked Petitioner's Exhibit No. 912.

Mr. Guiler: I have here, certain letters produced by the White Star Company, which I desire to put in later.

Mr. Spooner: Have they been produced here?

Mr. Guiler: They have been produced here, yes; I suppose that may be done, Mr. Burlingham?

Mr. Burlingham: Yes.

Mr. Guiler: Then there are circular letters of Mr. Peters which were produced at the hearing at Liverpool and about which I desire to confer with Mr. Dorr, produced by Mr. Ismay. These have already been marked in evidence in Liverpool as a body and now I wish to confer with Mr. Dorr in regard to the same, and possibly eliminate some that we do not think material. There are other minutes of the meetings of the Atlantic Conference held in Liverpool, the North Atlantic Passenger Conference, which have already been marked in evidence, but which I desire also to go over later, and possibly eliminate the greater part of them. That may be done, may it not? 3457

Mr. Beecher: Yes.

Mr. Dorr: Mr. Beers, as I recall it, earlier in the case, the Cunard Company in answer to certain subpoenas stated that a search had failed to show in their files papers which came within the terms of the subpoena, is that correct, Mr. Beers? 3458

Mr. Beers: That is my recollection. We produced all the documents in the office of the agents here in New York, which could be found and it is my recollection that we offered to produce anything called for from Liverpool, if on looking over the record, the Government finds anything that was not supplied at that time that we can supply, and if you will let me know, I will produce it.

Mr. Guiler: I would like to have on the record, also, that the Hamburg American Line will produce certain letters and correspondence called for by the subpoena issued sometime prior to this, and I would like to reserve the right to put that correspondence in later. 3459

Mr. Spooner: That is being collated and will be translated. It was just about the time we broke up and I supposed it had been delivered to you. If it is not, I will see that it is. It is in my office. It all relates to the fighting ship business as I recollect it.



3460 Mr. Dorr: As to these letters that have been produced by Mr. Shipman, or copies of them, it would hardly seem necessary to have them written out by the stenographer, and with the consent of counsel, they will be sent directly to the printer.

Mr. Spooner: You consider those taken in the testimony at Liverpool already in evidence?

Mr. Guiler: Yes.

Mr. Dorr: As I recall it, there was a stipulation that the testimony might be taken at Liverpool.

Mr. Spooner: A stipulation that Mr. Ismay's testimony might be taken.

3461 Mr. Guiler: And any other witness that the Government desires. I understand that was so.

Mr. Spooner: No, sir; not to my recollection.

Mr. Dorr: Have you any objection to Mr. Cauty's testimony?

Mr. Spooner: I have not seen it.

Mr. Beers: On page 936, I said, "I should like to have it appear on the record that the examination to be had in Liverpool is only for the purpose of taking the testimony or deposition of Mr. Ismay, and of such experts as to foreign law as Mr. Burlingham may desire to call.

3462 "Mr. Guiler: Also that the examination of Mr. Ismay will undoubtedly entail a calling for various papers and documents at the same time as the examination is going on," and I said, "I would like to enquire on the record as to the date of the next hearing which is to be had in New York after the testimony of Mr. Ismay has been taken in Liverpool."

Mr. Guiler: And I think Mr. Spooner said at that time, that any other witness we might think it necessary to take the testimony of, he would not object to it.

Mr. Bullowa: I want to reserve an objection to that testimony. Whether I shall insist upon it later or not, I will notify the Government.

Mr. Spooner: I don't want to make any point on it, and I do not mean to if I can just look over the testimony, which I will proceed to do. I want to reserve the right to move to strike out the testimony taken at Liverpool, except Mr. Ismay's. 3463

Hearing adjourned until Friday, November 1st, 1912, at 11 o'clock, A. M.

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

THE UNITED STATES OF AMERICA,  
Petitioner,  
against

HAMBURG - AMERIKANISCHE-  
PACKETFAHRT - ACTIEN - GE-  
SELLSCHAFT, and others,  
Defendants.

3464

Before:

Charles E. Pickett, Esq., Examiner.

New York, November 1, 1912.

Hearing resumed pursuant to adjournment.

3465

Appearances:

Henry A. Wise, Esq., Goldthwaite H. Dorr, Esq.,  
Henry A. Guiler, Esq., for Petitioner.

Messrs. Choate & Larocque, by Nelson Shipman,  
Esq., for Norddeutscher Lloyd, *et al.*

Messrs. Lord, Day & Lord, by Lucius H. Beers,  
Esq., and Allan B. A. Bradley, Esq., for Cunard Line,  
*et al.*

Ralph J. M. Bullowa, Esq., personally for the Rus-  
sian East Asiatic Company, *et al.*

1155

3466 Mr. Bullova: I think before this proceeding goes on, I shall put on the record that Mr. Beecher stated he understood this hearing this morning was simply for the purpose of respondents, if they desired, to put on a witness and that when he found out he could not secure the witness he had made other engagements, and told me he was going up to General Sessions and that Mr. Burlingham would be engaged before Judge Ward on a motion in the Titanic matter.

Mr. Dorr: Did he ask to have an adjournment; do you ask that for him now?

Mr. Bullova: I do not want to make any request in his behalf; I only want to put down his understanding of it.

3467 Mr. Bradley: Are you authorized to make any request on his behalf?

Mr. Bullova: I don't know that I am.

Mr. Bradley: Do you know that you are not?

Mr. Guiler: I think the hearing was put over until this morning; that is what you asked.

Mr. Bullova: No; my understanding was—I won't be positive that it is correct—my understanding was, and confirmed by Mr. Beecher, that the Government had rested yesterday, and that the hearing would be adjourned until November 11th, but that if we desired a hearing this morning to put on a witness, we should have the right to do so.

3468 Mr. Dorr: I think the record will show the Government rested and subsequently by consent of counsel, and before that was recorded, the Government stated it might desire to offer other evidence.

Mr. Beers: That was my understanding of it.

Mr. Bradley: That is my recollection of what took place.

Mr. Dorr: I think in the absence of any authorized appearance for Mr. Beecher and Mr. Burlingham, perhaps an adjournment might be taken without proceeding with the examination of the witness.

Mr. Beers: I ought to state on the record that on hearing from the United States Attorney this morning, I communicated with Senator Spooner personally on the telephone and he requested that the hearing this morning, proceed. I told him it was the purpose of the Government to examine Mr. Winter, and all the Senator asked was that his right to cross-examine be reserved.

Mr. Dorr: I have no objection to that.

Mr. Bullowa: I reserve the right to cross-examine for Mr. Beecher as well. Is that understood, Mr. Dorr?

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Mr. Dorr: Well, it seems to me that Mr. Winter is a witness who can readily be called by the defendants and any matters they desire to bring out—it seems to me that the cross-examination of Mr. Winter as a witness, the witness being in the employ of the defendants, he can readily be called by the defendants if they desire to examine him.

Mr. Beers: I think I can agree on behalf of Mr. Winter that he will appear at the request of any of the defendants for examination.

Mr. Winter: Certainly.

HERMANN WINTER, sworn on behalf of the Petitioner, testified as follows:

3471

*Direct-examination by Mr. Dorr:*

Q. Mr. Winter, what was your occupation in 1908?

A. I was with the North German Lloyd as passenger manager.

Q. How long have you been with the North German Lloyd? A. Since 1885.

Q. With what department of the business were you connected during that time? A. Practically, entirely the Passenger Department, and gradually assuming the management of the office.

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Q. In 1908, did you become a member of the so-called Small Committee? A. I did.

Q. What time in 1908 was that? A. Approximately in May, I should say; May or June, for a term of three months.

Q. Were you present at a meeting at which this Small Committee was designated? A. The Small Committee was practically designated under cable instructions from the other side.

3473 Q. Will you state the circumstances in your own way, Mr. Winter, as to the method by which you were designated to become a member of the Small Committee? A. The companies on the other side desired that certain competition be met on this side—

Q. Will you just confine your answer to the method by which you were designated? A. And cabled instructions here that a committee of three be appointed.

Q. To whom were those instructions sent? A. To all the lines here.

Q. Were they communicated to your line in that letter or were general instructions sent to a common agent to notify the various lines? A. There were two or three cables received here by the various lines.

3474 Q. What did those lines then do? A. Met in the Conference rooms.

Q. They were accustomed, were they not, to meet in conference? A. To discuss business affairs, yes.

Q. And that was at one of these meetings of the Conference that this matter of the designation of the Small Committee was taken up? A. It was.

Q. And what was the Conference at which it was taken up; what was the name of that Conference? A. The Continental Conference.

Q. Continental or Atlantic? A. Continental.

Q. What lines did the Continental Conference include at that time? A. Hamburg American, North German Lloyd, the Red Star, Holland America Line, French Line, the Russian American Line.

Q. Was there any representative of the White Star Line present at that meeting? A. Indirectly, in the Red Star.

Q. Any representative of any other British Line? A. No, I believe not.

Q. Was a Mr. Lawson Sandford, the secretary of the Conference, present as secretary of the Conference? A. Yes, as secretary of the Conference.

Q. Did he record the proceedings of what occurred at that meeting? A. Merely the designation of the committee.

Q. Did the instructions which had been received from the various lines abroad which were discussed at this Conference, include the designation of any particular persons to act on this Small Committee? A. No; they were to be named here.

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Q. It was, then, a matter of discussion at this meeting of the Conference as to what persons should be made members of this Small Committee? A. No; the various interests in the business were selected to represent us on the committee, for representation on the committee.

Q. I don't quite catch that, Mr. Winter? A. Well, the Continental Lines interested in Continental business, then the British Lines as far as they were represented in that connection.

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Q. The representatives of these various lines at this meeting of the Conference discussed what persons should be designated? A. What interests.

Q. What interests should be represented? A. What interests should be represented.

Q. And then, if for instance, the North German Lloyd, it was decided that the North German Lloyd should be represented, then it was left to the North German Lloyd to designate the particular person who should represent it, is that it? A. No, not in that way. The North German Lloyd and the Hamburg

*Hermann Winter*

3478

American Line represented the larger Continental interests, and were to have a representative on the committee.

Q. How was the particular person who should represent them to be designated? A. That was a matter of experience; his business experience.

Q. Who selected him, the various persons who were assembled at the Conference? A. Yes.

Q. It was not left to the line to designate the particular person? A. No.

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Q. At that meeting, they discussed what interests should be represented on this Small Committee, that is, what line and what person should represent those particular interests? A. Yes.

Q. And what persons were selected at that meeting? A. Mr. Lederer, Hamburg American Line; Mr. Nyland for the Holland America Line, and myself.

Q. How long did that personnel serve? A. The arrangement was one member to serve three months, another for two months, and the last for one month, so that all the lines might rotate.

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Q. What other lines were represented on that Small Committee from time to time, other than the ones which you have mentioned? A. Subsequently, the American Line was represented through Mr. Farley, the Russian American Line through Mr. Strauss, Mr. Farley would be representative for the White Star.

Q. The White Star, as well as the American? A. Yes.

Q. Was any specific authority conferred upon this Small Committee at this meeting of the Conference at which the persons who were to be members of that committee were designated? A. During the first term, the committee had authority to select a steamer and to suggest a rate.

Q. Was that power conferred by action of the various lines which were represented at the Conference here, or was that power conferred under explicit instructions from abroad? A. Under cabled instructions from abroad.

Q. The instructions, then, were in substance, that a committee should be selected? A. Exactly.

Q. And that it should have the power to designate a ship and suggest the rate? A. Suggest the rate.

Q. At which that ship should operate? A. Yes.

Q. And the rate was to be applicable to the steerage passengers only? A. Third-class passengers.

Q. Third-class passengers only? A. Yes. You see, the lines judged the committee being on the spot would be better able to judge the matter.

3482

Q. And the ship was to be designated which should sail at or about the time of the sailing of a steamer of a line which was not a member of the Conference? A. Of a competing line that was cutting into business.

Q. Of a line which was not a member of the Conference? A. Yes.

Q. What lines were there at that time which were not members of the Conference? A. More particularly the North West Transport Company.

Q. That was the only line doing a steerage business in the North Atlantic trade that was not represented directly or indirectly in the Conferences you have mentioned? A. Practically.

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Q. After the designation of this Small Committee, did that Committee hold meetings? A. Not regular meetings.

Q. Didn't the various members confer formally or informally? A. As the other line designated a steamer and published a rate, we met and consulted.

Q. As to what should be done? A. As to what shall be done.



Q. Did the competing lines which you have mentioned from time to time, publish sailings and publish rates for steerage passengers on those sailings?

A. They had not at that time, a fixed sailing list or fixed rate.

Q. Did they, from time to time, publish the fact that there would be a sailing? A. Yes.

Q. And that there would be a rate which was applicable to that particular sailing? A. Exactly.

Q. From time to time, then, your Committee ascertained that the competing line had so announced a sailing and published a rate? A. Yes.

3485 Q. On learning of that, did your Committee designate a ship belonging to one of the lines which was a member of the Conference, and suggest a rate which should be published for that steamer? A. Yes.

Q. And that was the regular course of the business of that Committee? A. Yes.

Q. While you were a member of it? A. Yes, sir.

Q. You have used the word, "suggest," Mr. Winter, were the suggestions of the Small Committee as to the rate, followed by the lines to whom the suggestions were made? A. They usually were adopted.

Q. Do you recall any case in which they were not followed? A. Yes.

3486 Q. What was the procedure in those cases? A. That had to be reported to its home office and they raised an objection.

Q. And that objection was reported back to the Small Committee? A. No, they were allowed to proceed then and adopt the rate they chose.

Q. Was the fact of their objection indicated to the Small Committee? A. Yes; the line would say we object. Some lines objected to having their steamers designated.

Q. And would state the grounds of their objection? A. They would say they did not want to participate.

Q. What lines were those? A. The Cunard Line one.

Q. What others? A. The White Star objected to this designation.

Q. The White Star Line did accept designations? A. It subsequently did; yes.

Q. Subsequently? A. Not for that very vessel possibly; for other vessels.

Q. Were there any other lines that objected to the designation? A. No. On the contrary, some of them asked for the designation.

Q. What lines asked for the designation? A. The Baltimore interests asked for the designation; the Canadian interests. 3488

Q. The Baltimore interests; what lines were they? A. They felt they were being affected.

Q. What lines do you refer to? A. The North German Lloyd; the Baltimore interest.

Q. The North German Lloyd is what you refer to as the Baltimore interests? A. Yes; the Canadian Pacific.

Q. To Hamburg? A. The Hamburg Line from Philadelphia.

Q. The Canadian Pacific? A. The Canadian Pacific from Montreal.

Q. Any others? A. The Allan Line from Montreal. 3489

Q. Any others? A. Not that I know of.

Q. They asked to be designated? A. To be designated.

Q. Did those requests for designation come at the time it was asked or immediately thereafter? A. Thereafter, as the line published the steamer at the lower rate, the other line would object and say we would like to be designated also so that we may compete.

Q. That is they objected— A. To the sole designation of one line.

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Q. How long did your committee continue to exercise the power of designation and the duty of making the suggestions of the rate? A. I should say approximately five or six months.

Q. What change was then made in the practice, if any? A. The committee was asked to recommend and suggest a rate to the other side, the home office.

Q. Was it asked to recommend the ship that was to be designated? A. Yes.

Q. And also to recommend a rate? A. Suggest a rate.

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Q. And how long did the committee continue to perform that function? A. Not more than three or four months.

Q. That brought it down to what time, Mr. Winter? A. I should say the middle of 1909.

Q. And what occurred then? A. The companies on the other side assumed the entire direction in that matter.

Q. In what way did the companies on the other side indicate their instructions in this regard to the companies on this side? A. They cabled the specific line instructing them to reduce their rate for a certain sailing to meet the competition.

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Q. Did the instructions come from the home office of that particular line or from Secretary Peters? A. No, from the home office of the particular line to that line here.

Q. Are you familiar with the method by which that designation is going on? A. No, not now. They select on the other side.

Q. While you were a member of the Small Committee do you recall whether or not your committee suggested as to rates for the ships which you designated a published rate lower than the published rate of the competing line? A. Yes, on various occasions. That is, the published rate, not the net rate.

Q. That was the rate which was published to the public and which they were invited to buy tickets on?

A. Yes.

Q. Mr. Winter, I would like to get from you if I can some of the history of what was done under the various agreements which have been put in evidence; are you familiar with the various pool agreements of the Continental lines?

Mr. Beers: It is understood that evidence of what was done under agreements other than "AA" is received subject to our objection?

Mr. Guiler: That is understood.

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A. Fairly so.

Q. And with what was done under them? A. Yes.

Q. Let us start, if you will, with the agreement of 1892; between what lines was that agreement? A. Practically the Continental lines only; covering Continental business.

Q. The lines which were engaged in carrying passengers and freight to or from the North Atlantic Continental ports? A. North Atlantic Continental ports, that is right.

Q. Did that agreement include the British lines?

A. No.

Q. Or the Scandinavian lines? A. No, it did not.

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Q. At that time were there any Russian lines? A. No, no direct Russian lines.

Q. There were none? A. No.

Q. Did it include the Mediterranean lines? A. No, not the Mediterranean. There practically was no direct—that is, the Mediterranean service such as we understand it.

Q. It has grown up since that time? A. Yes.

Q. How long did that agreement of 1892 remain in effect? A. 1892 remained in effect—well, that agreement practically with slight amendments is in effect today.

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Q. Has it been continuously in effect during that whole time? A. Yes.

Q. And continuously acted upon during that time? A. Yes, between the Continental lines.

Q. Known as the N. D. L. V. Agreement? A. Yes.

Q. This agreement provided that the steerage traffic of the various lines that participated in it should be divided into certain percentages and it provides—the face of it—that a certain percentage should be allotted to the British lines, namely fourteen per cent? A. In arriving—

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Q. Refresh your recollection about it if you wish, Mr. Winter? A. Yes (referring to Petitioner's Exhibit No. 2). In arriving at some basis to formulate an agreement upon it naturally the division of the business as it was done by the statistics of ten years prior to that time are taken as the basis and it was found that the British lines practically had transported fourteen per cent of that business.

Q. Well, that provision then certainly of the fourteen per cent to the British lines did not mean there was any agreement with the British lines? A. No.

3498

Q. You simply assumed that the fourteen per cent of the— A. Fourteen per cent was not available for Continental lines practically.

Q. And the remaining eighty-six per cent was apportioned among them? A. Exactly. In fact, it is stated in the next paragraph you see; it provides for an agreement later with the British lines.

Q. But that agreement was not entered into immediately after the 1892 agreement? A. No, it took some time to negotiate it.

Q. Until that agreement with the British lines was entered into I suppose that the various Continental lines were free to get as large a share of that fourteen per cent as they could? A. They had to arrange their

service as far as possible to obtain their share of this business. Mind you, under the agreement every service, every line, is bound or obliged to get as many passengers as they can.

Q. That is, is bound to carry as nearly as possible its percentage? A. Get all the business it can.

Q. If it could carry more than its percentage? A. Of course, it advances its rate; that is regulated.

Q. I suppose to diminish its business? A. Somewhat by advancing the rate.

Q. Then the efforts of the line to secure additional business are only effective up to the point where it is receiving its allotted share and then it is bound by the terms of the agreement to take steps to raise its rate and thus diminish its share? A. The idea is if a line takes such effective methods in the way of competition to better its service and obtain a better share it will, of course, obtain a large revenue.

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Q. But just as soon as it has any such measures which it takes so becoming effective in giving it a larger percentage of the business, then it is bound to take steps to diminish the amount of that business, is it not under the agreement? A. To an extent; not to diminish it, but to obtain a larger revenue also.

Q. It has got to keep on enlarging the rates until that time when it diminishes the business? A. There is a limit to that; it cannot be forced above a certain amount.

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Q. But that figure above which it could not get— A. That is put on voluntarily sometimes; the lines have gone above that.

Q. And if it does not raise its rates the other lines can force it to raise its rates? A. No, they can reduce their rates to secure their own share. In fact at times they are at liberty to reduce.

Q. But according to the agreement which was finally adopted the successor of this agreement, the

3502

agreement of 1908, it was agreed, was it not, that the lines should take the step of raising rather than lowering it to equalize the percentages? A. Yes.

Q. In order that all the companies might get the largest revenue possible from that business? A. Yes.

Q. At the time this 1892 agreement went into effect was there any agreement between the various lines that were parties to it as to the rates which should be charged other than this general agreement which you say did regulate the rates? A. I don't quite understand.

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Q. Was there any agreement as to specified rates; as to what specific rates each line should charge should be? A. At the beginning of every year practically the basis of rates was established for each line.

Q. That is, was that established by each line separately or by the various lines in conference? A. The various lines practically notified of the rates they wanted to accept to begin with.

Q. And it was a matter of mutual discussion? A. Yes.

Q. And agreement or not? A. On the other side discussion and, I presume, understanding.

Q. And did that apply to the cabin business as well as the steerage business? A. No.

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Q. At that time, in 1892, then there was no understanding or agreement? A. 1892 was the first agreement they reached and it was the result of a disastrous competition that existed prior to that time.

Q. The causes of it we will go into subsequently. We are now concerned with what was actually done—

Mr. Bullowa: That is part of the history of it, isn't it, Mr. Dorr?

Mr. Dorr: I suppose this will all go into that ultimately.

Q. But in 1892 then at the time of this original agreement, there was no agreement as to the cabin rates or as to the division of the cabin business? A. No.

Q. Did such an agreement thereafter come into existence between the lines which were parties to this conference? A. Not for a division of the cabin business, but fixing minimum rates.

Q. When was such an agreement first adopted by the lines which were parties to this agreement, Government Exhibit No. 2?

Mr. Beers: That is the Continental lines? 3506

Mr. Dorr: Yes.

A. Approximately 1898 I believe; somewhere around there.

Q. Between 1892 and 1898 am I correct in understanding that there was no agreement between the Continental lines and the British lines? A. No direct agreement or understanding to work together.

Q. And there was no agreement as to a division of traffic? A. Not beyond that included there.

Q. Was there any agreement by which the Continental lines kept out of British traffic or the British lines kept out of Continental traffic? A. The efforts of the British lines I believe to obtain a larger share of the Continental business helped to an understanding ultimately. 3507

Q. Helped to the agreement of 1898? A. Yes, the agreement of 1898.

Q. That is, at that time the British lines were seeking a larger part of the Continental business than they had heretofore been able to secure? A. Yes, they made various attempts at that.

Q. And that led to a revision of the earlier agreement of 1892? A. To an understanding as to how that business should be divided practically, or the field of operation divided; I think it was in 1898.



Q. Did it go—what was it, an oral understanding or was it an agreement in form as well as in substance?

A. I think it was more in the form of an understanding; I don't think there was a permanent agreement of it.

Q. What British lines were parties to this understanding or agreement? A. The American Line, the White Star, Anchor Line, Allan State Line—that is out of existence now.

Q. That understanding or agreement came into existence about 1898? A. I think so approximately at that time.

3509

Q. And at the same time the provisions of the 1892 agreement of the Continental lines with some modifications were continued? A. Yes.

Q. How long did that state of affairs last? A. I think with slight amendments until 1902, the beginning of 1903.

Q. What occurred at that time? A. The Cunard Line which had been operating together with them withdrew.

Q. Had the Cunard been a member or a party to that agreement? A. Not necessarily a member, but it had co-operated to the extent of working under the same basis practically; that is, not disturbing matters.

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Q. Had it taken any measures to restrict its business to a particular share of the general business? A. No.

Q. Had it been under any agreement to advance its rates if it were getting a larger share of the business? A. It advanced its rates to obtain a larger proportion and found it was able to get it.

Q. It had advanced its rates from time to time? A. And had reduced it as it was necessary.

Q. And it had done that from the standpoint of obtaining the largest amount of traffic it could obtain at the most remunerative figures? A. Yes, but it always informed the other lines.

Q. Informed the other lines of those actions? A. Of those actions.

Q. Of what action it had taken? A. Yes.

Q. That is, it had been acting— A. In harmony with it.

Q. In a general spirit of harmony without any agreement which restricted its rights— A. I think so; that is about the basis of it.

Q. To carry on its business as it thought the best interests of the line demanded? A. Yes.

Q. And the Cunard was engaged in the Continental traffic at that time? A. To a slight degree, yes.

Q. Not by running its ships directly? A. No, they were running by way of Liverpool.

Q. Now, in 1902 or 1903, what action was taken by the Cunard? A. The Cunard at the invitation of the Hungarian Government started its own service from the Mediterranean; its Hungarian service.

Q. The Hungarian traffic prior to that had been regarded as Continental business? A. Exactly.

Q. And had gone through the northern ports? A. The northern ports.

Q. And it instituted the so-called Fiume service? A. Yes.

Q. Did the Cunard lower its Continental rates at that time? A. Oh, no.

Q. One other thing before I pursue that further, Mr. Winter; had certain Mediterranean services been established by other lines prior to the establishment of the Fiume service by the Cunard Line? A. Yes, for the Italian traffic; only that.

Q. What were those lines which had gone into the Mediterranean? A. The North German Lloyd had gone in there, the Anchor Line had gone in more directly, the White Star had gone in by way of the Dominion Line and the Hamburg-American Line.

Q. And there were also certain Italian lines at that time? A. Yes.

Q. Which were running to Italian ports? A. Yes, the Fabre Line.

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Q. And those various lines entered into an agreement among themselves covering the steerage traffic?

A. No. That is, there was a general understanding here as to the rates; the companies instructed their representatives here to meet and discuss what rates could be equitably charged; they were agreed upon and put into effect.

Q. Suggest what rates could be equitably charged or what rates could be effectively charged? A. No, for services rendered.

3515 Q. The consideration of all the people you met was what the value of the services were or what would be an effective rate in order to get the business and to work the lines profitably? A. A line with a better service and better boats could get a better rate than a line with a slow boat and a comparatively poor reputation.

Q. And a real serious matter for discussion, Mr. Winter, was, was it not, the fixing of the rates of the various lines according to the attractiveness of those lines for the business? A. Certainly, that is the basis you have to fix your rate on.

Q. It was important to a line, we will say, with inferior facilities that the line with superior facilities should maintain a higher rate? A. Certainly.

3516 Q. Otherwise the line with the inferior facilities would not get the business? A. Yes.

Q. So that these conferences were primarily directed toward the question of relative rates of the various lines? A. Yes.

Q. What part in these conferences was the effort and desire to so fix relative rates that the relative proportions of business of the various lines would not be disturbed? A. There were no proportions fixed at that time.

Q. What concern was it then, we will say, of the Fabre Line, what rates should be charged by the

North German Lloyd? A. Naturally it wanted to be put in a position to be able to secure its business?

Q. What? A. To get its share of the business.

Q. Exactly, and in a rough way the shares of the various lines must have been prorated, at any rate in the minds of the conferees, must it not? A. Well, to an extent, yes, of course, but the amount of business offered was a guide also.

Q. At that time there was no definite agreement as to what particular share it would have? A. No.

Q. That is, the Fabre Line might contend it ought to have a larger share than the North German Lloyd was willing to concede it ought to have, and those differences as to what should be the relative proportions of business were also always discussed in conference?

3518

A. Yes.

Q. And matters of general adjustment? A. Yes.

Q. To get the rates in a general way adjusted so that the mass of business would in a general way conform or would be satisfactory to the various lines?

A. These rates were discussed here and then submitted to the home offices abroad. If they approved of them they were charged.

Q. Now, was there not also, Mr. Winter, or was there or was there not an understanding at the same time that the lines which were running ships to Mediterranean ports should confine their business to Italian emigrants? A. Why, no; not for the Mediterranean lines.

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Q. Not at that time? A. Not at that time.

Q. That is, at that time the Mediterranean lines were free to take as much continental business as they could obtain or that they desired to obtain? A. Yes, but all the lines avoided that.

Q. As a matter of fact they were not doing a very large continental business? A. No, they couldn't do it.

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Q. Had they tried to do it? A. They couldn't do it, even if they tried.

Q. Had they tried to do it? A. Yes.

Q. And had not succeeded in getting it? A. They can't get it, no.

Q. Did the Cunard Line confine itself exclusively when it entered the Fiume service, exclusively to the Hungarian business as far as the steerage passengers were concerned? A. Coming this way, yes.

Q. On westbound? A. Westbound.

Q. How about the eastbound? A. Eastbound it competed for Italian business.

3521

Q. How about the eastbound Continental business, didn't the Italian lines and North German Lloyd and other lines— A. No.

Q. Didn't the Italian lines do any eastbound Continental business? A. No; very little; you cannot get it that way.

Q. They were unable to secure it? A. Yes.

Q. But they were competing for it? A. Yes; they never quoted rates. The Continental business is Italian lines.

Q. They did not quote rates? A. At that time they never did.

3522

Q. So that at that time there was at any rate no formal agreement and, as you recall it, no understanding even? A. No.

Q. That the various Mediterranean lines should not be allotted to the Continental business. As a matter of fact, they were not doing it to any extent, and no definite restriction had been imposed upon them doing it; it was left to the ordinary working natural conditions at that time? A. That is it.

Q. And no attempt was made in any way to restrict or interfere with the play of those natural conditions at that time? A. No.

Q. That was the situation in 1902; there was this Continental agreement as to the North Atlantic and there was a collateral understanding or agreement with the British lines, or all the British lines other than the Cunard, and there were these understandings as to the fixing of rates which they endeavored to make mutually agreeable in the Italian trade? A. Yes.

Q. But no restriction as to the Continental business being done via the Mediterranean? A. Yes.

Q. And in 1902 the Cunard established its Hungarian business? A. Yes, probably 1903.

Q. And also as far as eastbound traffic went it competed for the Italian business? A. Yes. 3524

Q. The Cunard did not lower its rates at that time, or as an initial step at any rate? A. No.

Q. What steps, if any, were taken by the other lines? A. Why, a rate war broke out immediately.

Q. What do you mean by that; what did the other lines do? A. Well, the rate war resulted in the withdraw—

Q. I understand that; that is a pretty general question, but what did the other lines do?

Mr. Bullowa: Won't you let him answer the question in his own way? You ask your own questions and put everything in his mouth. Now let him have a chance to answer it. 3525

Mr. Dorr: I asked him to state specifically what the lines did.

Mr. Bullowa: I know; he is answering it in his own way.

A. Difficulties arose between the lines—

Q. I understand that—

Mr. Bullowa: Wait until he finishes and then object.

A. They reduced their rates.

Mr. Dorr: I don't think Mr. Winter wants to avoid answering the question directly when he understands what I want.

Mr. Bullowa: I think he is trying to and if it is not his understanding you can ask it over again. You are putting everything in his mouth. You have an idea what you want—

3527 Q. Mr. Winter, what I desire you to do now is this: to state as specifically as you can what particular steps the various lines took at that time in relation to the fixing of their rates or sailings of their steamers at the time the Cunard went into the Hungarian service; do you get what I have in mind? That is what I am trying to get is not a general statement as to what occurred, but, so far as you can give it to me, a specific statement as to what, for instance, your line did. It will be better to begin that way; what did the North German Lloyd do when the Cunard began its Fiume service? A. I would practically have to look that up if you want it as specific as all that.

3528 Q. Well, by specific I don't mean what particular rates were charged, but did it make any changes in the service, put it that way? A. Naturally the Cunard did secure Hungarian business, not so much because the Cunard line entered their service, but because the Hungarian Government practically stopped Hungarian emigration by way of northern ports, and it led to a readjustment of all matters.

Q. That is, the Hungarian business as a block was withdrawn from the Continental lines which had theretofore been doing it all and dividing it up among themselves according to certain agreements? A. Yes. Well, had not divided the Hungarian business up.

Q. Only in so far as it was a part of the general Continental business? A. Yes.

Q. My question was misleading there. And the North German Lloyd did do certain things? A. All

the lines practically reduced their rates to attract their business.

Q. To attract the Hungarian business? A. Yes, despite the restrictions placed upon it by the Hungarian Government.

Q. The Hungarian Government put certain restrictions in the way of Hungarians traveling via Continental ports? A. Yes.

Q. By Continental ports, when that phrase is used, you mean the North Atlantic ports? A. The North Atlantic Continental ports.

Q. And in order to counteract the Hungarian Government in attempting to divert the emigrant traffic to Fiume and the Cunard Line, under its agreement with the Cunard the various lines lowered their rates from Continental ports? A. Yes. 3530

Q. Now, what other steps, if any, were taken by the Continental lines—the North German Lloyd and other lines—which were occasioned by the action of the Cunard Line? A. No further steps taken than that.

Q. You simply lowered the rates? A. Simply lowered the rates.

Q. Did they succeed by that method in regaining a portion of the Hungarian business? A. As usual these rate wars have always led to loss and ultimately led to a readjustment of method. 3531

Q. Mr. Winter, I know you do not mean to do anything but answer my questions directly, but what my question was, if you will read it, you will find, I think, did not call for that particular answer. (Question read.) You see that question calls for a definite answer? A. It did.

Q. For how long did the Continental lines continue to reduce their rates in order to attract this business? A. I couldn't say offhand; it was not a very long period.



3532

Q. It was not a very long period? A. No, about a year.

Q. That would bring it to about 1904 approximately? A. 1905.

Q. Four or five? A. Yes.

Q. Did the Continental lines then restore their rates to what they had been? A. Gradually all rates were restored.

Q. Was any agreement at that time entered into between the Continental lines and the Cunard Line? A. I think that agreement resulted a little later than that.

3533

Q. In 1906 or 1907 was it? A. I would have to look that up.

Q. Was there any agreement prior to 1908 to which the Cunard was a party? A. No, not this business.

Q. Not steerage traffic? A. Not on it.

Q. So that gradually the rates which had been lowered by the Continental lines as a result of the Hungarian agreement for the Fiume traffic with the Cunard— A. It was not merely the Hungarian; other difficulties arose.

Q. What were the other difficulties? A. New steamers being put in.

3534

Q. By what lines? A. By practically all the lines; the adoption of rates that secured a large proportion of this business against other vessels that had previously been in the service.

Q. Let's get that as specifically as we can, Mr. Winter.

Mr. Bradley: You asked for other causes and you might as well get them all down.

Mr. Dorr: That is what I want to go into.

Mr. Bradley: Perhaps he had some more to mention, I don't know.

Q. First you say an additional cause was the entrance of new steamers? A. Yes.

Q. What new steamers and what lines have you got particularly in mind? A. All the lines practically improved their service; the Hamburg-American, North German Lloyd; we all put in new boats.

Q. You haven't in mind any particular steamers? A. No, sir.

Q. Or particular boats? A. No; all the lines put in better service.

Q. Were these difficulties in 1905 connected at all with the cabin business? A. No. Well, some of those, yes.

Q. In what way? A. The Kaiser boats came out, for instance, the North German Lloyd had secured a large proportion of the business.

3536

Q. And carrying at substantially the old rates? A. No, at higher rates; so boats were charging a higher rate because they were worth it.

Q. Because you had entered the business? A. They secured the business. The facilities they offered, the speed they made and the services they rendered.

Q. And the other lines thought the Kaiser rate ought to be proportionately higher? A. The other lines reduced their rates or adjusted their rates, and that brought around differences.

Q. You mean that the other lines thought that the rates on the Kaiser boats for example should be raised to such a point that the other lines could get their fair share of the business? A. Well, in one way. The adjustment came in on the Hamburg-American Line, also running at the same speed; she adopted a lower rate.

3537

Q. And the other lines thought that it was not fair? A. And the North German Lloyd naturally thought they ought to go to some other class, or adopt the same rate as the Kaiser boats.

Q. As the North German Lloyd? A. Yes, rendering the same service.

3538

Q. And they regarded it as unfair that the Hamburg-American Line should run a boat of equal facilities at a lower rate? A. Exactly.

Q. And these differences in rates led to more or less, I suppose, ill feeling between the different lines; I don't mean personal ill feeling, but business ill feeling? A. Yes, it led to feuds between the different lines; reduction of rates.

Q. And when they once started fighting they fought tooth and nail? A. Yes; it extended to every class.

3589 Q. How about the steerage rates of the new boats, the Kaiser and the Deutschland, was that also a factor in the difficulties? A. Their rate war is also effective on all classes of business.

Q. I am speaking now, not of the secondary effects, but the primary effects, where the rates which were charged by the Hamburg-American Line, we will say, for its Deutschland steerage business, was it thought that those rates were lower, we will say than the rates of the Kaiser Wilhelm? A. They were not.

Q. They were the same? A. Yes, they were the same.

Q. Then the fixing of the steerage rates is not one of the factors which led to the rate war? A. No, not at that time.

3540 Q. The lowering of the steerage rate was a result rather than a cause? A. A result rather than a cause.

Q. And the war had its inception— A. Probably in the differences of the cabin list.

Q. That war then in so far as the North German Lloyd and the Hamburg-American Line was concerned had its origin in a different cause from the war of the Continental lines against the Cunard Company for example—that is, so far as the Hungarian business went, the interest of the North German Lloyd and the Hamburg-American were one, I suppose? A. They didn't have any war; there was no war in the Hungarian

business; merely an attempt to recover their business under restrictions placed upon them by Government action.

Q. That is to say, the reduction there was to meet an artificial condition created by the Hungarian Government? A. More particularly, yes.

Q. And in that matter there was no difference between the Hamburg-American and the North German Lloyd? A. No.

Q. And no occasion for a general rate war? A. It led to a general rate war.

Q. It led to a war eventually of those lines with the Cunard Line for example so as to secure for the Continental lines a portion of the Hungarian business?

3542

A. Indirectly; the North Continental lines reduced their rate and the Cunard Line had to follow.

Q. Yes; it would naturally lead to competition between the Cunard and Continental lines? A. Yes, but the Cunard did not follow very much.

Q. It had the advantage? A. It had the advantage.

Q. It had such an advantage that it was not compelled to reduce its rates so far? A. Yes.

Q. But what led to the struggle of the Continental lines among themselves; were the difficulties through the putting on of these new ships? A. New boats, yes, and difficulties arising by Governmental action.

3543

Q. You mean the action of the German Government? A. The Hungarian Government particularly.

Q. Now, Mr. Winter, were these difficulties as to the first and second cabin business adjusted? A. Yes, came to an understanding.

Q. By an agreement or understanding? A. We came to an understanding on the various minimum rates.

Q. And when that was done why the war measures as to the steerage rates ceased, I suppose? A. Practically.

3544

Q. That was about to—when was that, in 19—?  
A. 1905 or '06.

Q. Were the British lines a party to the agreement as to the cabin rates? A. Yes, to an understanding at that time. That is, the proposition in 1905 practically failed.

Q. There was an understanding? A. There was an understanding that was practically put in operation, but it failed shortly thereafter.

Q. Were the Cunard a party to that? A. Well, they worked together with it; they were not a party to it.

3545

Q. But when you say they worked together with it, they did not start in on a campaign of rate cutting independently? A. No, the Cunard practically was free from all agreements since 1903.

Q. Now, then, this 1905 understanding or agreement you say did not last very long? A. It never went into operation fully.

Q. To what extent did it go into operation at all, if you can testify? A. The lines for self-protection particularly adopted certain minimum rates and adhered to them. There never has been a division among the lines of cabin business, Mr. Dorr; there cannot be.

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Q. At any rate, there is none. Have you ever tried to make a division? A. You cannot make it; it has been tried over and over again but did not succeed.

Q. The lines, then, did make an attempt to make a division of first cabin business but found it impracticable? A. You cannot divide the cabin business.

Mr. Beers: Mr. Dorr asked you whether they tried to?

Q. Did they try to do it? A. Yes, it has been tried.

Q. When was that tried; under what agreement; do you mean to say they tried or tried to make an agreement? A. They tried to arrange some plan.

Q. They tried to agree upon a plan? A. To agree upon some plan to adjust the cabin business that way

Q. But they never actually made an agreement to divide it? A. No.

Q. That was simply tentative negotiations? A. Yes.

Q. Which did not result in any agreement? A. Let us understand, Mr. Dorr. Prior to 1892 there was an indiscriminate rate war here; indiscriminate cutting—

Q. Are you answering my question as to whether the negotiations were tentative or not? A. I said yes.

3548

Mr. Bradley: That is not all the question.

Mr. Dorr: I think the witness has answered the question when he stated the negotiations were tentative. If that is not a complete reply, Mr. Winter, I don't want to cut you off? A. They tried to come to an agreement but they couldn't do it.

Q. The agreement of 1905 did not go fully into effect. What was the next occurrence? A. Matters continued as they were regarded then until 1907.

Q. That is, the various Continental lines acted in accordance— A. With their original agreement as far as third-class business was concerned.

3549

Q. They continued to share the Continental third class business? A. Yes, the agreement shows that.

Q. And a certain amount of the Continental third-class was allotted to the British lines? A. Yes.

Q. And the British lines other than the Cunard divided that up among themselves? A. Yes.

Q. By their own arrangement? A. Yes.

Q. Now, at that time what was the situation in regard to the British steerage business, the Continental lines, were they under any agreement with the British lines to keep out of that?

3550

Mr. Beers: That is between 1905 and 1907?

Mr. Dorr: Between 1905 and '07.

A. The Continental lines have always kept that British steerage business for natural reasons.

Q. Tell me was there or was there not an understanding or agreement that they should do so? A. No, there was no understanding practically; the Continental lines withdrew from the British business because they could not handle it.

3551 Q. You say they withdrew, when did they withdraw? A. From the very beginning; they cannot carry it; they have got to meet certain requirements of the British law.

Q. Was there or was there not an agreement that they should not go into the British business; wasn't it part of the consideration, so to speak, or one of the considerations which you presented to the British lines, that the Continental lines would not go into the British business and would keep out of it? A. No, you cannot find that in any agreement.

Q. No, I am asking you now for the terms of the agreement? A. No, that is a natural condition.

3552 Q. A condition which the British lines recognized? A. Which the British and Continental lines both recognized. The Continental lines could not carry British business, which is in fact the British lines' business.

Q. Now, Mr. Winter, was it not used as an argument with the British lines by the Continental lines to prevail upon them to accept the percentage of Continental business which was allotted to them that the Continental lines would not go into the British fields? A. It was used as an argument possibly.

Q. Don't you know it was? A. Yes, but it had really no weight.

Q. You mean as a matter of fact the Continental lines while advancing that as an argument, did not

really intend to go into the British field? A. They could not do it.

Q. You say they could not do it? A. No, not effectually.

Q. With their existing ships? A. Yes, at that time.

Q. Of course, it was perfectly practicable for them to go into it by building ships which would meet the British requirements if the old ships did not meet it?

A. Yes, but they hadn't the ships to go in at that time.

Q. They were building ships from time to time?

A. Yes, but they were made to meet the Continental requirements.

3554

Q. And there was an understanding that they would not, not particularly with ships they had, but the ships they were building would not go into it? A. The British business had that field to themselves.

Q. They had it, I know, but was there not an agreement— A. Not an agreement or understanding, but simply because they had it. They owned it and the German lines could not undertake to take it away from them.

Q. You mean the German lines— A. The Continental lines.

Q. You stated to the British lines we recognize this is your business and we will not compete with you in it; that is what it amounted to, was it not? A. Yes.

3555

Q. The statement to the British lines by the Continental lines that they would not—they said they would not compete, wasn't that what they in substance said to the British lines? A. That was never stated.

Q. How about the Scandinavian business? A. We are all competing for the Scandinavian business, east-bound.

Q. They were at that time? A. We are today.

Q. I am talking now about that time? A. At that time.



3556

Q. How about the Scandinavian westbound? A. Westbound the Continental lines withdrew from in favor of the British lines as part of the consideration for the division of the business, the Continental business.

Q. That the Continental lines should not go into the Scandinavian business? A. That is part of the agreement of 1895.

Mr. Bullowa: Are all of these agreements contained in some written document?

The Witness: I think the first agreement for 1895 will show that.

3557

Q. In regard to the Continental lines keeping out of the British lines' territory, or the British territory, do you know of any written agreement on their part to do so? A. No, there is none.

Q. Do you not know that there was an understanding that they should do so? A. Except it is a natural fact; there is nothing in the way of an understanding or agreement on that.

Q. Wasn't it stated to the British lines at the time of these agreements that the German lines would keep out of the British territory? A. No, not in so many words.

Q. Not in so many words? A. No.

3558

Q. Was it not implied to them that they would? A. No.

Q. Now, Mr. Winter, are you quite clear about that? A. I am clear that the Continental lines cannot touch it.

Q. I am not talking now about what the actual facts were, but the Continental lines could with their present equipment go in; my question now is directed to this, did not the Continental lines urge it upon the British lines that they were giving up the British business or any attempt to go into the British business, as one of the considerations of the British lines accepting

the percentage they had under these contracts of the North Atlantic or Continental business; now, isn't that a fact, Mr. Winter? A. Well, I don't know—

Mr. Beers: You heard the question, didn't you?

The Witness: Yes, sir.

Mr. Beers: Read it again and make sure.

Q. (Question read.) A. That is a fact, yes, in one way, but—

Q. Go ahead; finish it up; say anything you desire in explanation? A. It is a fact one way of course, but except its natural conditions there.

Q. You mean as a matter of fact the British lines would have had in any event a considerable advantage in their own territory? A. Yes. 3560

Q. Just as the Continental lines have a considerable advantage in their own territory? A. Yes, but the volume of the Continental business is so much larger.

Q. That there was more inducement for the British lines to go into the Continental than there was for the Continental to go into the British? A. Yes, with the strong hold the membership had on it.

Q. The Continental lines as a matter of fact touch at certain of the British ports, do they not? A. Oh, yes.

Q. Whereas the Cunard Line, for instance, and the White Star Line do not touch at Continental ports? 3561

A. The White Star Line do.

Q. At Continental ports? A. Yes, Cherbourg.

Q. Did they in 1905 do that trade? A. Yes.

Q. Always? A. Oh, yes. Well, they started in—when the White Star started its service to Cherbourg and Southampton it went into the Continental business; it touched at Continental ports.

Q. But while it maintained a Liverpool service exclusively it did not? A. It did not touch at Continental ports.

3562

Q. And it did not establish the Southampton service until 1906, did it not? A. Oh, it was prior to that.

Q. 1904 or '05? A. 1905 or '05 or '06; somewhere around that.

Q. And the Anchor Line of course has no Continental port? A. No.

Mr. Bullowa: It has a Mediterranean service.

The Witness: It has a Mediterranean service, yes.

Q. But it did not do a Continental business? A. No.

3563

Q. The Continental lines, they proceeded under their old agreement with some modifications from 1905 down to 1907? A. Yes.

Q. And the British lines other than the Cunard Line continued under their old agreement with the Continental lines and among themselves with certain modifications down to 1907? A. Yes.

Q. Was there any disturbing element introduced into the situation? A. Yes.

Q. In 1907? A. Yes.

Q. What was that, Mr. Winter? A. The rates of the Cunard Line for the Mauretania and Lusitania raised objection in the cabin business more particularly.

3564

Q. The cabin rates? A. Cabin rates.

Q. The third class rates also? A. No, they were affected later.

Q. The difficulty then arose from the cabin rates of the Mauretania? A. From the cabin rates of the Mauretania, yes; competition to get business.

Q. Did the other lines complain that if the Cunard maintained those lower rates in the cabin they would get more than their share of the business? A. The Cunard Line practically with these two boats were cutting into the business of all of the other lines under the rates they were charging.

Q. What rates were they charging? A. \$110 as against \$112.50 and \$115 for the others; and, of course, with the attraction of speed; the attraction these new steamers offered of speed accommodation, service, they cut right into it.

Q. That is, those elements made the steamers particularly attractive rather than the \$2 difference in rate? A. Well, they helped.

Q. Two dollars difference in first cabin business would not be material? A. Five dollars difference in cabin business at times affects the business.

Q. Five dollars? A. Yes; that is really so, as all of the other rates are based on that. 3566

Q. What rates were being charged for the *Lucania* and *Campania* of the Cunard Line? A. \$100 and \$85; \$85 in the winter season.

Q. And when the Cunard put the *Mauretania* and *Lusitania* on the service they fixed the cabin rate at \$110? A. \$110.

Q. The rates of \$112.50 were the rates of the *Deutschland* and *Kaiser Wilhelm*? A. Of the *Deutschland* and *Kaiser Wilhelm*.

Q. And the Continental lines thought that the Cunard rates ought to be with the new boats higher? A. With better service ought to be higher.

Q. And what did the North German Lloyd and the Hamburg-American do? A. Tried to negotiate a better understanding and feeling and the rates were reduced. 3567

Q. And they reduced their rates on the *Deutschland* and *Kaiser Wilhelm der Grosse*? A. Yes.

Q. How long had those ships been in service at that time? A. The *Kaiser Wilhelm II* had just come out; the *Kaiser Wilhelm der Grosse* came out in 1897; the *Kronprinz* in 1901; the *Kaiser Wilhelm II* came out in 1907.

3568

Q. What were the rates of the Kaiser Wilhelm der Grosse? A. \$112.50.

Q. That is all of those boats were \$112.50? A. Yes, from \$105 to \$112.50.

Mr. Beers: These are all first cabin rates?

The Witness: First cabin rates, yes.

Q. And the Deutschland? A. The same thing practically.

Q. When did the Deutschland come out? A. 1898.

Q. The North German Lloyd and Hamburg-American reduced their rates; how far did they reduce them at that time, to what point, do you recall? A. We came down to \$75 ultimately, at the end of the rate war.

3569

Q. And when was that? A. In the fall and winter of 1907.

Q. Were steerage rates affected? A. Oh, yes, the reductions in cabin rates naturally also applied to the second cabin rates and then the steerage.

Q. That is, when the North German Lloyd and the Hamburg-American started to cut, they cut all along the line? A. All other lines cut; they naturally had to reduce.

Q. And the Cunard Line itself cut, I suppose? A. It had to meet that.

3570 Q. What was the situation in the Mediterranean at that time; was there any cutting going on there? A. Yes, cabin rates there were affected.

Q. Cabin rates there were also affected? A. Also affected.

Q. You say that this terminated in the winter of 1907, that is, the last part of 1907? A. This practically caused the negotiations which resulted in the agreement of February, 1908.

Q. And resulted in the Agreement "AA"? A. "AA."

Q. Do you recall the date of the first formal agreement as to the Mediterranean business? A. The first formal agreement for the Mediterranean business is dated February, 1909.

Q. February, 1909? A. Yes, between all the lines. I think it is February, 1909.

Q. Hadn't there been an agreement prior to that time, Mr. Winter? A. No, there had been various negotiations looking towards an agreement.

Q. Had there been tentative working agreements? A. I don't remember. If at the time we had a working agreement it had not been reduced to formal shape, but it was understood various lines would charge certain rates.

3572

Q. And how about the division of business? A. There was no division of business beyond the natural one, the charging of rates.

Q. But the relative rates were, I suppose, designed to preserve in a general way a division of business? A. Oh, yes.

Q. Now then, in 1908 and 1909 was there considerable and pretty active competition in the Mediterranean business? A. Yes.

Q. Do you recall whether or not the Italian Lines at that time competed for continental business? A. The Italian Lines entered into the continental business; that is more particularly the south continental business.

3573

Q. Then by agreement of 1909 they agreed definitely to withdraw from that business, did they not? A. Yes, gladly.

Q. I don't suppose you represent the Italian Line, but they received a certain allotment or certain share of the Mediterranean steerage business? A. Yes.

Q. And that share was such that they were glad to accept that and withdraw from the continental business? A. Yes.

3574

Q. And since that time the Mediterranean Lines have not gone into the continental business? A. No.

Q. Except the Cunard which continues in under the Hungarian Agreement? A. Yes, the Fiume service.

Q. And it was not until 1908 then that the Cunard came into the general agreement? A. That is right.

Q. And the Cunard had been a large and powerful line prior to that time, had it not? A. Yes, it was a factor in the trade.

3575

Q. When the Agreement "AA" went into effect did it include all of the lines which at that time were engaged in the North Atlantic steerage traffic? A. Yes, except the Uranium Line, practically the Northwest Transport Company.

Q. And that is included since that time, or does this agreement as amended include all the lines which are engaged in that North Atlantic steerage traffic other than the Uranium Line and its— A. Yes.

Q. There was no other exception, was there? A. Yes, there was one, the Canadian Northern or Royal Line rather.

Q. That no longer is in existence? A. Oh, yes, it is.

Q. It is still in existence? A. Oh, yes.

8576

Q. So there are two lines which are not— A. That has joined; that applied for admission.

Q. That now belongs? A. Yes, but the Uranium Line never applied.

Q. That has never become a member? A. Never applied for membership.

Q. Do you speak of that of your own knowledge? A. Yes.

Q. It never applied to you? A. The agent here informed me of that.

Q. You mean Mr. Thomas? A. Mr. Fourman.

Q. Mr. Fourman is merely a passenger agent? A. I know, but he told me that fact; he showed me a cable too.

Q. When was that that you had this conversation with Mr. Fourman? A. Last year.

Mr. Bullowa: Do you know who the cable was from?

Mr. Dorr: I object to that.

Q. The only knowledge that you have then is the conversation with Mr. Fourman and a paper which he showed you? A. Yes.

Q. Are you personally acquainted with the owners or managers of the line? A. No. 3578

Q. You have not had any conversation with them about it? A. No.

Q. What is your position at the present time, Mr. Winter? A. I am on the staff of the Cunard Line.

Q. And in the office here in New York? A. Yes, sir.

Q. Have you attended any meeting of the lines in Europe? A. Yes.

Q. Of late, the last few years? A. Last year.

Mr. Beers: On behalf of Senator Spooner and at his request and also on my own behalf I should like to reserve the right to cross-examine Mr. Winter at some subsequent hearing, and I understand Mr. Winter will hold himself in readiness to respond to a request. 3579

The Witness: Yes, sir.

Mr. Bullowa: I join in that request and on behalf of Mr. Burlingham and Mr. Beecher.

Hearing adjourned until Monday, November 11th, 1912, at 11:00 o'clock A. M.



3580

## UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

THE UNITED STATES OF AMERICA,  
 Petitioner,  
 against

H A M B U R G - A M E R I K A N I S C H E -  
 P A C K E T F A H R T - A C T I E N - G E -  
 S E L L S C H A F T, and others,  
 Defendants.

3581

Before: Charles E. Pickett, Esq., Examiner.

New York, November 11, 1912.

Hearing resumed pursuant to adjournment.

Appearances:

Henry A. Wise, Esq., Goldthwaite H. Dorr, Esq.,  
 Henry A. Guiler, Esq., for the Petitioner.

Messrs. Burlingham, Montgomery & Beecher, by  
 Charles C. Burlingham, Esq., and Norman B. Beecher,  
 Esq., for the Anchor Line, Ltd., *et al.*

3582 Messrs. Choate & Laroque by Nelson Shipman,  
 Esq., for Norddeutscher Lloyd, *et al.*

Messrs. Spooner & Cotton, by L. C. Spooner, Esq.,  
 for the Allan Line, *et al.*

Messrs. Lord, Day & Lord, by Lucius H. Beers,  
 Esq., for the Cunard Line, *et al.*

Ralph J. M. Bullowa, Esq., and Walter Rogers  
 Deuel, Esq., for the Russian East Asiatic Company,  
*et al.*

Mr. Guiler: I want to notify counsel that at the  
 last meeting held here I neglected to put in the Con-  
 tinental Traffic Agreement which I intended to put in.

I have taken the liberty while you were away, in order to get it in the printer's hands, to mark that Exhibit No. 913. If there are no objections that will go in that way. It is the Continental Traffic Agreement for third-class. 3583

Mr. Beers: As far as I am concerned I have no objection to it going in as though it were offered at the last session, and being given the number 913 subject to our objection that it is irrelevant and immaterial and incompetent.

Mr. Spooner: Agreed to produce witnesses on behalf of the defendants represented by him on Thursday, November 14, 1912, at 11 o'clock A. M.

Mr. Guiler: I offer in evidence the following circular letters or so-called Rundschreiben of Mr. Peters, the conference secretary at Jena, relating to the Atlantic Conference. 3584

Mr. Beers: In so far as these refer to matters other than AA their admission in evidence is over our objection?

Mr. Guiler: Yes.

Mr. Beers: I also wish to object to their admission as not binding upon the defendants I represent and therefore incompetent.

Circular letter G. No. 1, dated Jena, 15th, February, 1908, addressed "To the Parties to the general pool," beginning with the words "The Norddeutscher Lloyd informed me" and ending with the words "I have today sent the agreement to Mr. Cameron for signature." 3585

Marked Petitioner's Exhibit No. 914.

Also circular letter G. No. 2, dated Jena, 17th February, 1908, addressed "To the Parties to the General Pool," beginning with the words "The White Star Line suggests that the Contract," and ending with the words "they are to be sent under a special address."

Marked Petitioner's Exhibit No. 915.

- 3586 Also circular letter G. No. 3, dated Jena, den 21 Februar 1908, addressed to "To the Parties to the General Pool," beginning with the words "The Canadian Pacific Railway have returned to me the Original," and ending with the words, "I shall inform the Parties and then send the printed copies."

Marked Petitioner's Exhibit No. 916.

- 3587 Also circular letter G. No. 4, dated Jena, 29th February, 1908, addressed "To the Parties to the General Pool," beginning with the words "The Hamburg-American Line have received the following cable," and ending with the words "have secured for their passenger service New York-Rotterdam" and signed.

Marked Petitioner's Exhibit No. 917.

Also circular letter G. No. 5, dated Jena, February 29th, 1908, addressed "To the Parties to the General Pool," beginning with the words "I beg to confirm my today's telegram reading," and ending with the words "I trust there will be no objection as to this being accepted."

Marked Petitioner's Exhibit No. 918.

- 3588 Also circular letter G. No. 6, dated Jena, den 3 März 1908, addressed to "To the Parties to the General Pool," beginning with the words "I beg to confirm my today's telegram reading: "On account of shortage," and ending with the words "for which statistics are to be made up ends on the 7th inst."

Marked Petitioner's Exhibit No. 919.

Also circular letter G. No. 7, dated Jena, March 6th, 1908, addressed "To the Parties" beginning with the words "In the 'Frankfurter Zeitung' of February 29th" and ending with the words "the views of the parties on this point, which I trust can be given by return."

## Marked Petitioner's Exhibit No. 920.

3589

Also circular letter G. No. 8, dated Jena, March 8th, 1908, addressed "To the Parties," beginning with the words "In connection with circular letter G. No. 4 I hereby beg to advise," and ending with the words "these latter steamers were formerly employed by the British 'India Steam Navigation Company.'"

## Marked Petitioner's Exhibit No. 921.

Also circular letter G. No. 9, dated Jena, March 6th, 1908, addressed "To the parties," beginning with the words "In the 'Odessaer Zeitung' of 1st inst the Navigazione General. Italiana" and ending with the words "I shall inform the Parties of, if of sufficient importance," and signed. 3590

## Marked Petitioner's Exhibit No. 922.

Also circular letter G. No. 10, dated Jena, den 9 März 1908, addressed "To the Parties," beginning with the words "The Cie Gle Transatlantique write me about the "Volturno," and ending with the words "We have not heard yet whether they intend to call at any British ports" also P. S. ending with the words "but no through connection to the West except from Quebec."

## Marked Petitioner's Exhibit No. 923.

Also circular letter G. No. 11, dated Jena, March 11th, 1908, addressed "To the Parties to the Atlantic Conference," beginning with the words "The Holland-America Line write that their General Agency in Switzerland," ending with the words "the Lines would agree to it being a joint one the effect, no doubt, would be stronger" and signed. 3591

## Marked Petitioner's Exhibit No. 924.

Also circular letter G. No. 12 headed "New York Continental Line (G. No. 10), beginning with the words 'The Holland-America Line write that their

- 3592 General Agency in Switzerland,' " and ending with the words "a good number of passengers, in which expectation, we beg to remain" and signed "Reisebureau 'Oceana.' "

Marked Petitioner's Exhibit No. 925.

Also circular letter G. No. 13, dated Jena, March 12th, 1908, addressed "To the Parties to the Atlantic Conference," beginning with the words "Referring to G. No. 12 I beg to propose that the Lines," and ending with the words "will be disqualified for all the Lines below."

Marked Petitioner's Exhibit No. 926.

- 3593 Also circular letter G. No. 15, dated Jena, March 14th, 1908, addressed "To the Parties to the Atlantic Conference," beginning with the words "Clause 16 of the Contract provides that," ending with the words "or whether they prefer not to go beyond what clause 16 asks for" and signed "H. Peters."

Marked Petitioner's Exhibit No. 927.

- 3594 Also circular letter G. No. 17, dated Jena, March 17th, 1908, addressed "To the Parties to the Atlantic Conference," beginning with the words "S. S. Estonia of the Russian Eastasiatic Co. arrived," ending with the words "on March 14th after having embarked 37 passengers," and signed "H. Peters."

Marked Petitioner's Exhibit No. 928.

Also circular letter G. No. 18, dated Jena, March 19th, 1908, addressed "To the Parties to the Atlantic Conference," beginning with the words "These last days I have sent the westbound statistics," ending with the words "when rectifications are sent," and signed "H. Peters."

Marked Petitioner's Exhibit No. 929.

Also circular letter G. No. 19, dated Jena, March 20th, 1908, addressed "To the Parties to the Atlan-

tic Conference," beginning with the words "When writing G. No. 7 my impression was, that it was the intention," and ending with the words "This settles the matter." 3595

Marked Petitioner's Exhibit No. 930.

Also circular letter G. No. 20, dated Jena, March 20th, 1908, addressed "To the Parties to the Atlantic Conference," beginning with the words "With reference to the proposed circular several lines," ending with the words "will send out the circular and let me have a copy of it," and signed "H. Peters."

Marked Petitioner's Exhibit No. 931.

Also circular letter No. 21 dated Jena, March 23rd, 1908, addressed "To the Parties," beginning with the words "S. S. 'Petersburg' of the Russian Volunteer Fleet left Libau" ending with the words "this applies only to Rotterdam or to Libau also" and signed "H. Peters." 3596

Marked Petitioner's Exhibit No. 932.

Also circular letter No. 22 dated Jena, March 23rd, 1908, addressed "To the parties," beginning with the words "I received the following communications from the Allan Line," ending with the words "This will be attended to," and signed "H. Peters."

Marked Petitioner's Exhibit No. 933. 3597

Also circular letter G. No. 24, dated Jena, March 25th, 1908, addressed "To the Parties" beginning with the words "S. S. 'Lituania' of the Russian East Asiatic S. S. Co.," ending with the words "465 steer-agers & proceeded the same day to Libau," and signed "H. Peters."

Marked Petitioner's Exhibit No. 934.

Also circular letter G. No. 25, dated Jena, March 26th, 1908, addressed "To the Parties," beginning

- 3598 with the words "S. S. 'Saratow' of the Russian Volunteer Fleet sailed," ending with the words "which steamer leaves N. Y. on April 1st" and signed "H. Peters."

Marked Petitioner's Exhibit No. 935.

Also circular letter G. No. 27, dated Jena, March 30th, 1908, addressed "To the Parties," beginning with the words "On Thursday last I informed the Parties that the Continental Lines," and ending with the words "already on receipt of this circular letter."

Marked Petitioner's Exhibit No. 936.

- 3599 Also circular letter G. No. 28, dated Jena, March 31st, 1908, addressed "To the Parties," beginning with the words "Messrs. Ismay, Imrie & Co., Liverpool, and send me copy of a letter," ending with the words "and eastbound from New York April 9th up to July 30th," and signed "H. Peters."

Marked Petitioner's Exhibit No. 937.

Also circular letter G. No. 30, dated Jena, April 2nd, 1908, addressed "To the Parties," beginning with the words "S. S. Estonia of the Russian East Asiatic S. S. Co.," ending with the words "350 were transferred to S. S. Petersburg April eight."

Marked Petitioner's Exhibit No. 938.

- 3600 Also circular letter G. No. 31, dated Jena, April 3rd, 1908, addressed "To the Parties" beginning with the words "Referring to the latter part of G. No. 27 I beg to add some remarks," and ending with the words "to the proposed advance of Continental rates without reserve."

Marked Petitioner's Exhibit No. 939.

Also circular letter G. No. 32, dated Jena, April 3rd, 1908, addressed "To the Parties," beginning with the words "S. S. Cherson" (Russian Volunteer

Fleet)," and ending with the words "March 30th with 3601  
447 souls."

Marked Petitioner's Exhibit No. 940.

Also circular letter G. No. 33, dated Jena, April 4th, 1908, addressed "To the Parties" beginning with the words "The Anchor Line write: 'We are pleased,' " ending with the words "the delivery of its statistics for more than 3 days," and signed "H. Peters."

Marked Petitioner's Exhibit No. 941.

Also circular letter G. No. 36, dated Jena, April 8th, 1908, addressed "To the Parties," beginning with the words "S. S. 'Cherson' (Russian Volunteer Fleet) arrived at Rotterdam," and ending with the words "950 steeragers & proceeded April 6th for Libau." 3602

Marked Petitioner's Exhibit No. 942.

Also circular letter G. No. 37, dated Jena, April 8th, 1908, addressed "To the Parties," beginning with the words "S. S. 'Avoca' left Rotterdam on April 4th for Halifax, and ending with the words "besides two cabin passengers for New York."

Marked Petitioner's Exhibit No. 943.

Also circular letter G. No. 40, dated Jena, April 9th, 1908, addressed "To the parties," reads as follows: "S. S. 'Petersburg' left New York April 8th with 1173 steeragers. S. S. 'Korea' of the Russian East Asiatic S. S. Co. left Libau April 6th with 365 steeragers and four cabin passengers for New York via Rotterdam." 3603

Marked Petitioner's Exhibit No. 944.

Also circular letter G. No. 41, dated Jena, April 13th, 1908, addressed "To the Parties," beginning with the words "S. S. 'Korea' of the Russian East



- 3604 Asiatic S. S. Co. arrived at Rotterdam" and ending with the words "and proceeded April 11th to New York."

Marked Petitioner's Exhibit No. 945.

Also circular letter G. No. 42, dated Jena, April 14th, 1908, addressed "To the Parties" and reads as follows: "S. S. 'Vulturno' sailed from New York on the 12th instant with 450 steeragers; another report states 478."

Marked Petitioner's Exhibit No. 946.

- 3605 Also circular letter G. No. 43, dated Jena, April 15th, 1908, addressed "To the Parties," beginning with the words "Referring to the last part of G. No. 35 I beg to inform the Parties that the position in the eastbound" and ending with the words "and without prejudice to any Line's rights."

Marked Petitioner's Exhibit No. 947.

Also circular letter G. No. 44, dated Jena, April 16th, 1908, addressed "To the Parties," reads as follows: "S. S. 'Estonia' of the Russian East Asiatic sailed from New York April 2nd and arrived at Rotterdam April 12th with 1050 passengers, landed 920 and proceeded April 14th to Libau."

- 3606 Marked Petitioner's Exhibit No. 948.

Also circular letter G. No. 45, dated Jena, April 18th, 1908, addressed "To the Parties," beginning with the words "I beg to confirm my yesterday's telegram reading" and ending with the words "we understand Lloyd reduce their rate by five dollars."

Marked Petitioner's Exhibit No. 949.

Also circular letter G. No. 46, dated Jena, April 18th, 1908, addressed "To the Parties," beginning with the words "Please have corrected G. No. 41 dated April 13th to G. No. 41a," and ending with the words "has remained throughout at 27 dollars 50 cents."

## Marked Petitioner's Exhibit No. 950.

3607

Also circular letter G. No. 47, dated Jena, 21, April 1908, addressed "To the Parties," beginning with the words "S. S. 'Jelunga' of the New York and Continental Line left Rotterdam," and ending with the words "will repair Halifax, departure hence uncertain."

## Marked Petitioner's Exhibit No. 951.

Also circular letter G. No. 48, dated Jena, April 23rd, 1908, addressed "To the Parties," beginning with the words "With reference to G. No. 35 I beg to state that the Continental Line's," and ending with the words "I shall be obliged for stating the number of such copies." 3608

## Marked Petitioner's Exhibit No. 952.

Also circular letter G. No. 49, dated Jena, April 23rd, 1908, addressed "To the Parties," beginning with the words "I beg to inform the Parties that the position in the eastbound Pool," and ending with the words "from the beginning will be shown in the statistics."

## Marked Petitioner's Exhibit No. 953.

Also circular letter G. No. 51, dated Jena, April 23rd, 1908, addressed "To the Parties," reading as follows: "S. S. 'Cherson' of the Russian Volunteer Fleet sailed from New York to Rotterdam April 22nd with 302 steeragers and 23 cabin passengers." 3609

## Marked Petitioner's Exhibit No. 954.

Also circular letter G. No. 52, dated Jena, April 24th, 1908, addressed "To the Parties," beginning with the words "The Hamburg-American Line write: 'We beg to acknowledge receipt' and ending with the words, 'five dollars per adult for opposing Avoca' and signed 'H. Peters' with supplement attached.

3610

## Marked Petitioner's Exhibit No. 955.

Also circular letter G. No. 53, dated Jena, April 25th, 1908, addressed "To the Parties," beginning with the words "I received the following letter from Hamburg-Amerika Line," and ending with the words "and Continental Line has been excellently won."

## Marked Petitioner's Exhibit No. 956.

Also circular letter G. No. 55, dated Jena, April 25th, 1908, addressed "To the Parties," beginning with the words "Today I beg to send the Monthly Statements for March," ending with the words "the payments have been made and received," and signed "H. Peters."

3611

## Marked Petitioner's Exhibit No. 957.

Also circular letter G. No. 56, dated Jena, April 25th, 1908, addressed "To the Parties," beginning with the words "S. S. 'Petersburg' of the Russian Volunteer Fleet arrived," and ending with the words "1100 passengers & proceeded April 23rd to Libau."

## Marked Petitioner's Exhibit No. 958.

3612

Also letter dated May 14th, 1908, addressed "H. Peters, Esq., Secretary's office, Atlantic Conference, Jena," beginning with the words "We beg to acknowledge receipt of your circular letter" ending with the words "and with which we trust the other Lines will be in accord," and signed "For Ismay, Imrie & Co. (Itld), T. C. S."

## Marked Petitioner's Exhibit No. 959.

Also circular letter G. No. 57, dated Jena, April 27th, 1908, addressed "To the Parties," beginning with the words "The Allan Line write: 'We are much surprised to learn,'" ending with the words "the pre-paid rates must be changed simultaneously," and signed "H. Peters."

## Marked Petitioner's Exhibit No. 960.

3613

Also circular letter G. No. 59, dated Jena, April 29th, 1908, addressed "To the Parties," beginning with the words "S. S. 'Voluturno' sailed from New York with 450 steeragers landed per passengers," and ending with the words "and the steamer proceeded for Hamburg the same day."

## Marked Petitioner's Exhibit No. 961.

Also circular letter G. No. 61, dated Jena, May 1st, 1908, addressed "To the Parties," beginning with the words "The Allan Line write: 'Referring to our letter of 23rd inst.,' " ending with the words "the views of the other Parties or any proposals they may have to make," and signed "H. Peters."

3614

## Marked Petitioner's Exhibit No. 962.

Also circular letter G. No. 62, dated Jena, May 2nd, 1908, addressed "To the Parties," beginning with the words "The 'Hamburger Fremdenblatt' of April 30th has the following communication," ending with the words "are pending with the Morgan-Trust," and signed "H. Peters."

## Marked Petitioner's Exhibit No. 963.

Also circular letter G. No. 64, dated Jena, May 4th, 1908, addressed "To the Parties," beginning with the words "On April 29th I received the following telegram from Americano," ending with the words "at a loss as we have to pay compensation twice," and signed "H. Peters."

3615

## Marked Petitioner's Exhibit No. 964.

Also circular letter G. No. 66, dated Jena, May 4th, 1908, addressed "To the Parties," beginning with the words "On this point I cabled New York asking the numbers of Continental steeragers," and ending with the words "with Signor Crespi & other Directors of Med. Lines."

3616

Marked Petitioner's Exhibit No. 965.

Also circular letter G. No. 67, dated Jena, May 5th, 1908, addressed "To the Parties," reading as follows: "S. S. 'Korea' of the Russian East Asiatic S. S. Co. sailed May 2nd from New York with 32 cabin, 660 steerage."

Marked Petitioner's Exhibit No. 966.

3617

Also circular letter G. No. 69, dated Jena, May 6th, 1908, addressed "To the Parties," beginning with the words "With reference to Lloyds telegram (G. No. 68, No. 10) I received further," ending with the words "I have asked Secretary Sandford for information," and signed "H. Peters."

Marked Petitioner's Exhibit No. 967.

Also circular letter G. No. 70, dated Jena, May 6th, 1908, addressed "To the Parties," beginning with the words "Some time ago the White Star Line informed me," and ending with the words "of the other Lines on this point and I shall be glad to get them."

Marked Petitioner's Exhibit No. 968.

3618

Also circular letter G. No. 71, dated Jena, May 6th, 1908, addressed "To the Parties," beginning with the words "Hapag wired today: 'In consequence of there being no opposition,'" and ending with the words "on the part of pool lines either."

Marked Petitioner's Exhibit No. 969.

Also circular letter G. No. 72, dated Jena, May 7th, 1908, addressed "To the Parties," beginning with the words "S. S. 'Cherson' of the Russian Volunteer Fleet arrived from New York," and ending with the words "with 163 steeragers & 4 cabin passengers."

Marked Petitioner's Exhibit No. 970.

Also circular letter G. No. 73, dated Jena, May 7th, 1908, addressed "To the Parties," beginning with the

words "Lloyd writes May 6th: 'We are in receipt of circular letter G. No. 66,' and ending with the words "to which we shall revert shortly." 3619

Marked Petitioner's Exhibit No. 971.

Also circular letter G. No. 75, dated Jena, May 8th, 1908, addressed "To the Parties," beginning with the words "In the circular G. No. 74 Parties will please substitute," and ending with the words "to G. No. 52 with this number."

Marked Petitioner's Exhibit No. 972.

Also circular letter G. No. 76, dated Jena, May 9th, 1908, beginning with the words "By request of the Hamburg-American Line I publish the following letters," ending with the words "Yours truly, signed: G. M. Bosworth, Fourth Vice President," addressed "To the Parties," and signed "H. Peters." 3620

Marked Petitioner's Exhibit No. 973.

Also circular letter G. No. 78, dated Jena, May 9th, 1908, addressed "To the Parties," beginning with the words "The Norddeutscher Lloyd write: 'With reference to circular letter G. No. 70,' and ending with the words "by our steamers to his Company."

Marked Petitioner's Exhibit No. 974.

Also circular letter G. No. 80, dated Jena, May 11th, 1908, addressed "To the Parties," beginning with the words "The British Lines have proposed the following form of the promissory note," and ending with the words "this matter may be brought to a close as soon as possible," and signed "H. Peters." 3621

Marked Petitioner's Exhibit No. 975.

Also circular letter G. No. 82, dated Jena, May 12th, 1908, addressed "To the Parties," beginning with the words "With reference to the complaint of the Allan Line (G. No. 61)," ending with the words

- 3622 "Red Star reduce eastbound to thirty dollars" and signed "H. Peters."

Marked Petitioner's Exhibit No. 976.

Also circular letter G. No. 83, dated Jena, May 12th, 1908, addressed "To the Parties," beginning with the words "This question originally was started by A. E. Johnson & Co.," and ending with the words "whether the rule can and will be made efficacious and what the effect will be."

Marked Petitioner's Exhibit No. 977.

- 3623 Also circular letter G. No. 84, dated Jena, May 12th, 1908, addressed "To the Parties," beginning with the words "By a memo from Secretary Smyth to the N. A. P. C. Lines," and ending with the words "what the Parties think about this suggestion."

Marked Petitioner's Exhibit No. 978.

Also circular letter G. No. 85, dated Jena, May 12th, 1908, addressed "To the Parties," beginning with the words "Secretary Smyth sent me a Memo to the Lines of the N. A. P. C. containing the following letter," ending with the words "but I am still without news that she has left," and signed "H. Peters."

- 3624 Marked Petitioner's Exhibit No. 979.

Also circular letter G. No. 86, dated Jena, May 12th, 1908, addressed "To the Parties," and reads as follows: "S. S. 'Jelunga' sailed Sunday May 10th from New York with 740 steeragers & 10 cabin passengers."

Marked Petitioner's Exhibit No. 980.

Also circular letter G. No. 88, dated Jena, May 13th, 1908 addressed "To the Parties," beginning with the words "We are of course far from holding any Conference Line responsible for the competition,"

ending with the words "The Standpoint of Nasm seems not to be unjustified," and signed "H. Peters." 3625

Marked Petitioner's Exhibit No. 981.

Also circular letter G. No. 89, dated Jena, May 13th, 1908, addressed "To the Parties," beginning with the words "S. S. Estonia of the Russasiatic arrived from Libau at Rotterdam" and ending with the words "19 more steeragers and proceeded on 9th inst. to New York."

Marked Petitioner's Exhibit No. 982.

Also circular letter G. No. 90, dated Jena, May 13th, 1908, addressed "To the Parties," beginning with the words "Anchor Line 'G. No. 70.' We adopt the same view as the White Star Co.," ending with the words "and its Contract colleagues," and signed "H. Peters." 3626

Marked Petitioner's Exhibit No. 983.

Also circular letter G. No. 91, dated Jena, May 14th, 1908, addressed "To the Parties," beginning with the words "S. S. Petersburg sailed from Libau March 11th with 388 souls in steerage," and ending with the words "was on March 30th from Libau."

Marked Petitioner's Exhibit No. 984.

Also circular letter G. No. 92, dated Jena, May 14th, 1908, addressed "To the Parties," beginning with the words "I sent the Parties this morning the following cable," ending with the words "A nearly identic cable has been received by Hapag," and signed "H. Peters." 3627

Marked Petitioner's Exhibit No. 985.

Also circular letter G. No. 93, dated Jena, May 15th, 1908, addressed "To the Parties," beginning with the words "Hapag send me the following report which they have received," ending with the words "which likely will be ready in autumn."



3628

## Marked Petitioner's Exhibit No. 986.

Also circular letter G. No. 94, dated Jena, May 15th, 1908, addressed "To the Parties," and reads as follows: "I received the following cable from Secretary Sandford: "San Giovanni (Sicula Americana) sailed today 2,000 steeragers including about 700 Continental" and signed "H. Peters."

## Marked Petitioner's Exhibit No. 987.

3629

Also circular letter G. No. 95, dated Jena, May 15th, 1908, addressed "To the Parties," beginning with the words "Lloyd write: 'We beg to acknowledge receipt of circular letter G. No. 85,'" and ending with the words "Hamburg-American Line were only partly compensated."

## Marked Petitioner's Exhibit No. 988.

Also circular letter G. No. 96, dated Jena, May 15th, 1908, addressed "To the Parties," beginning with the words "With reference to G. No. 70 the Donaldson Line write," and ending with the words "regarding rail commission to New York and Continental Line," and signed "H. Peters."

## Marked Petitioner's Exhibit No. 989.

3630

Also circular letter G. No. 98, dated Jena, May 19th, 1908, addressed "To the Parties," beginning with the words "The White Star Line send me the following copy of a letter," ending with the words "The interim ticket I shall bring along," and signed "H. Peters."

## Marked Petitioner's Exhibit No. 990.

Also circular letter G. No. 99, dated Jena, May 19th, 1908, addressed "To the Parties," beginning with the words "The Secretary of the N. A. P. C. writes with reference to G. No. 65," ending with the words "I have put this matter down for discussion at the near meeting," and signed "H. Peters."

## Marked Petitioner's Exhibit No. 991.

3631

Also circular letter G. No. 100, dated Jena, May 19th, 1908, addressed "To the Parties," beginning with the words "The Secretair of the N. A. P. C. writes: 'Referring to my letter of the 9th instant,'" and ending with the words "I have noted the matter for discussion at the meeting on 25th instant."

## Marked Petitioner's Exhibit No. 992.

Also circular letter G. 102, dated Jena, May 19th, 1908, addressed "To the Parties," beginning with the words "'Korea' of the East Asiatic arrived at Rotterdam," and ending with the words "of which 45 for Canada and 10 cabin passengers."

3632

## Marked Petitioner's Exhibit No. 993.

Also circular letter G. No. 103, dated Jena, May 20th, 1908, addressed "To the Parties," beginning with the words "I beg to confirm my telegrams: May 19th," and ending with the words "reduces eastbound to twenty-eight only instead of twenty-six," with supplement attached.

## Marked Petitioner's Exhibit No. 994.

Also circular letter G. No. 104, dated Jena, May 20th, 1908, addressed "To the Parties," beginning with the words "I beg to confirm my today's telegram 'Hapag cable,'" ending with the words "Fiume, twenty dollars, commission four" and signed "H. Peters."

3633

## Marked Petitioner's Exhibit No. 995.

Also circular letter G. No. 105, dated Jena, May 22nd, 1908, addressed "To the Parties," beginning with the words "I beg to confirm the following telegrams from Secretary Sandford," and ending with the words "meet situation sailings after that date."

## Marked Petitioner's Exhibit No. 996.

- 3634** Also circular letter G. No. 106, dated Jena, May 22nd, 1908, addressed, "To the Parties," beginning with the words "Secretary Smyth sent me a Memo to the Lines of the N. A. P. C.," ending with the words "has been put on the order of the day of Monday next" and signed "H. Peters."

Marked Petitioner's Exhibit No. 997.

Also circular letter G. No. 107, dated Jena, May 23rd, 1908, addressed "To the Parties," beginning with the words "With reference to the letter of the Secretary of the N. A. P. C. reading," and ending with the words "car elle serait contraire aux arrangements conclus."

**3635**

Marked Petitioner's Exhibit No. 998.

Also circular letter G. No. 108, dated Jena, May 23rd, 1908, addressed "To the Parties," beginning with the words "In further reference to G. No. 70 the Hamburg-American Line," and ending with the words "to the New York Continental S. S. Line."

Marked Petitioner's Exhibit No. 999.

Also circular letter G. No. 109, dated Jena, May 23rd, 1908, addressed, "To the Parties," beginning with the words, "I beg to confirm the following telegram: 'Ismay wires,'" ending with the words, "Dominion, White Star," and signed, "H. Peters."

**3636**

Marked Petitioner's Exhibit No. 1,000.

Also circular letter G. No. 110, dated Jena, May 25th, 1908, addressed, "To the Parties," beginning with the words, "In further reference to G. Nos. 103 & 109, the following changes," ending with the words, "of which the Lines will please take notice," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,001.

Also circular letter G. No. 111, dated Jena, May 25th, 1908, addressed, "To the Parties," beginning

with the words, "S. S. Jelunga, which sailed from New York May 10th," ending with the words, "landed at Rotterdam 600 passengers," and signed "H. Peters." 3637

Marked Petitioner's Exhibit No. 1,002.

Also circular letter G. No. 112, dated Jena, May 26th, 1908, beginning with the words, "I have to inform the Parties that the Nordd. Lloyd's communication," and ending with the words, "to New York \$28 to Baltimore \$28," and addressed, "To the Parties."

Marked Petitioner's Exhibit No. 1,003.

Also circular letter G. No. 113, dated Jena, May 27th, 1908, addressed, "To the Parties," beginning with the words, "I beg to confirm my today's telegram reading as follows," and ending with the words, "which the Parties will please correct accordingly." 3638

Marked Petitioner's Exhibit No. 1,004.

Also circular letter G. No. 114, dated Jena, May 29th, 1908, addressed, "To the Parties," reads as follows: "'S. S. Estonia' of the Russian East Asiatic S. S. Co. sailed May 27th with 28 second cabin and 1005 steeragers from New York."

Marked Petitioner's Exhibit No. 1,005.

Also circular letter G. No. 117, dated Jena, May 30th, 1908, addressed, "To the Parties," beginning with the words, "In accordance with G. No. 23 the Hamburg-American Line send me the following bill," and ending with the words, "the respective amounts to the Hamburg American Line." 3639

Marked Petitioner's Exhibit No. 1,006.

Also circular letter G. No. 118, dated Jena, May 30th, 1908, addressed, "To the Parties," beginning with the words, "Lloyd sends me an advertisement of the Russian East Asiatic S. S. Co.," ending with the

- 3640 words, "All letters to be addressed to the Libau Department," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,007.

Also circular letter G. No. 120, dated Jena, May 30th, 1908, addressed, "To the Parties," beginning with the words, "I beg to confirm that according to information received," and ending with the words, "they have claim to a compensation of \$4," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,008.

- 3641 Also circular letter G. No. 122, dated Jena, June 1st, 1908, addressed, "To the Parties," beginning with the words, "The Hamburg American Line send me the following letter from their New York representative which they ask me to circularize," ending with the words, "First class \$80, second class \$45, for further information apply to A. E. Johnson & Co., 27 Broadway, N. Y.," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,009.

- 3642 Also circular letter G. No. 123, dated Jena, June 1st, 1908, addressed, "To the Parties, Opposition Steamer (G. No. 120)," beginning with the words, "According to information received from the Holland-American Line," and ending with the words, "they will have to get \$6 compensation per adult."

Marked Petitioner's Exhibit No. 1010.

Also circular letter G. No. 124, dated Jena, June 2nd, 1908, addressed, "To the Parties, Russian Volunteer Fleet (G. No. 114)," beginning with the words, "'S. S. Cherson' of the Russian Volunteer Fleet arrived at Rotterdam May 28th," and ending with the words, "and proceeded for New York May 30th, after having embarked 105 steeragers."

Marked Petitioner's Exhibit No. 1,011.

Also circular letter G. No. 126, dated Jena, June 4th, 1908, addressed, "To the Parties," reading as follows: "The new steamer 'Rossia,' of the Russian Eastasiatic S. S. Co., sailed from Libau June 1st, with 257 steeragers and 8 cabin passengers." 3643

Marked Petitioner's Exhibit No. 1,012.

Also circular letter G. No. 129, dated Jena, June 6th, 1908, addressed, "To the Parties," beginning with the words, "This morning I received the following cablegram from Mr. Sandford," and ending with the words, "but to which I have not received a reply up till now."

Marked Petitioner's Exhibit No. 1,013.

3644

Also circular letter G. No. 131, dated Jena, June 6th, 1908, addressed, "To the Parties," beginning with the words, "Austro Americana send me a cut from a Trieste paper, 'Piccolo della Sera,' of June 1st," and ending with the words, "Duca degli Abruzzi, May 16th, from New York, with 548 Continentals."

Marked Petitioner's Exhibit No. 1,014.

Also circular letter G. No. 133, dated Jena, June 6th, 1908, addressed, "To the Parties," beginning with the words, "I received today the following letter from the Lloyd of June 5th," and ending with the words, "No doubt the cable which I transmitted to the parties this morning (G. No. 129) is the one referred to here." 3645

Marked Petitioner's Exhibit No. 1,015.

Also circular letter G. No. 134, dated Jena, June 9th, 1908, addressed, "To the Parties," beginning with the words, "In pursuance of G. No. 133 the following telegraphic correspondence has passed," and ending with the words, "Zotti tickets today. Volturno 321, Finland 1,305, transferred 180 Oceanic."

Marked Petitioner's Exhibit No. 1,016.

- 3646** Also circular letter G. No. 135, dated Jena, June 9th, 1908, addressed, "To the Parties," beginning with the words, "The Hamburg-American Line send me for promulgation copy of the following letter from Mr. Crespi to Mr. Ballin," and ending with the words, "action was consequently decided in accordance with the circumstances," signed, "Crespi."

Marked Petitioner's Exhibit No. 1,017.

- 3647** Also circular letter G. No. 136, dated Jena, June 10th, 1908, addressed, "To the Parties," beginning with the words, "With reference to the reduction of Lloyd's rates off control stations," and ending with the words, "in compliance with No. 11 of the minutes of the meeting of May 25th."

Marked Petitioner's Exhibit No. 1,018.

Also circular letter G. No. 137, dated Jena, June 10th, 1908, addressed, "To the Parties," beginning with the words, "With reference to the proposed amendments attached to G. No. 101," and ending with the words, "and hence they consider it more than a mere historical document," signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,019.

- 3648** Also circular letter G. No. 138, dated Jena, June 11th, 1908, addressed, "To the Parties," beginning with the words, "As the Promissory Notes are to be deposited not later than the 15th inst.," and ending with the words, "Canadian Pacific Ry. Co., £4490."

Marked Petitioner's Exhibit No. 1,020.

Also circular letter G. No. 142, dated, Jena, June 12th, 1908, addressed, "To the Parties," beginning with the words, "On the last London Meeting the opinion was prevalent that it would be bad policy under present circumstances," and ending with the words, "I shall be obliged for getting the views of the other Parties on the point."

## Marked Petitioner's Exhibit No. 1,021.

3649

Also circular letter G. No. 144, dated Jena, June 13th, 1908, addressed, "To the Parties," beginning with the words, "Transat inform me that the service from Marseille to New York by La Veloce," and ending with the words, "and the form suggested is free or partly free railway passes," signed, "H. Peters."

## Marked Petitioner's Exhibit No. 1,022.

Also circular letter G. No. 145, dated Jena, June 13th, 1908, addressed, "To the Parties," beginning with the words, "The White Star Line send me copy of a letter dated June 3rd," and ending with the words, "Austro informed me, that on the 4th inst. 460 Austrian emigrants passed Cormons," signed, "H. Peters."

3650

## Marked Petitioner's Exhibit No. 1,023.

Also circular letter G. No. 146, dated Jena, June 13th, 1908, addressed, "To the Parties," beginning with the words, "The Holland-American Line inform me that the 'Avoca,' which after the collision," and ending with the words, "the 'Avoca' can take her berth for the sailing advertised for June 20th," signed, "H. Peters."

## Marked Petitioner's Exhibit No. 1,024.

3651

Also circular letter G. No. 147, dated Jena, June 15th, 1908, addressed, "To the Parties," beginning with the words, "'S. S. Estonia,' of the Russian East Asiatic S. S. Co., which sailed May 27th from New York," and ending with the words, "landed all her passengers and proceeded June 10th to Libau."

## Marked Petitioner's Exhibit No. 1,025.

Also circular letter G. No. 148, dated Jena, June 15th, 1908, addressed, "To the Parties," beginning



- 3652 with the words, "The Allan Line have sent me their note for the amount of £7420," and ending with the words, "I should like to get the views of the parties on this point, and further beg to refer to G. No. 141," signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,026.

Also circular letter G. No. 150, dated Jena, June 17th, 1908, addressed, "To the Parties," beginning with the words, "I beg to advise that according to an information which I received from abroad," and ending with the words, "will not send out any more steamers until westbound traffic improves."

- 3653 Marked Petitioner's Exhibit No. 1,027.

Also circular letter G. No. 151, dated Jena, June 17th, 1908, addressed, "To the Parties," beginning with the words, "*Re* the question on compensation for passengers overbooked for S. S. Pretoria and Barbarossa I beg to advise," and ending with the words, "which I shall communicate, as soon as it is received," signed, "H. Peters."

Also statement of the cases attached to G. No. 151.

Marked Petitioner's Exhibit No. 1,028.

- 3654 Also Annex 1 to G. No. 151, headed, "Holland-Amerika Linie, Account," beginning with the words, "for 406/1, 14/2, 15/0 Hapag passengers ex. S. S. Pretoria, shipped per S. S. Noordam eastbound April 15, 1908."

Marked Petitioner's Exhibit No. 1,029.

Also Annex 2 to G. No. 151, headed, "Holland-Amerika Linie Account," beginning with the words, "for 316/1, 6/2 4/0 passengers ex. S. S. 'Barbarossa,' and shipped per S. S. 'Potsdam' eastbound April 8th, 1908."

Marked Petitioner's Exhibit No. 1,030.

Also circular letter G. No. 154, dated Jena, June 18th, 1908, addressed, "To the Parties," beginning with the words, "S. S. 'Petersburg' of the Russian Volunteer arrived from New York at Rotterdam," and ending with the words, "at Rotterdam she proceeded to Libau." 3655

Marked Petitioner's Exhibit No. 1,031.

Also circular letter G. No. 155, dated Jena, June 19th, 1908, addressed, "To the Parties," beginning with the words, "From Hy. Wilding I received the award," and ending with the words, "the Parties will please find copy annexed," signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,032. 3656

Also Annex to G. No. 155, dated June 16th, 1908, headed, "Award," beginning with the words, "In its natural meaning the expression 'Off Cherbourg.'" and ending with the words, "My fee £5:5:0 to be paid by the White Star and American Lines."

Marked Petitioner's Exhibit No. 1,033.

Also circular letter G. No. 156, dated Jena, June 19th, 1908, addressed, "To the Parties," beginning with the words, "The Hamburg-American Line received the following cable from New York, 18/6," and ending with the words, "of the Russian Volunteer Fleet which sailed the same date with 850 steeragers." 3657

Marked Petitioner's Exhibit No. 1,034.

Also circular letter G. No. 157, dated Jena, June 20th, 1908, addressed, "To the Parties," beginning, "American & White Star Lines reduced their east-bound Italian rate by their Channel Services to Turin to \$25."

Marked Petitioner's Exhibit No. 1,035.

Also circular letter G. No. 158, dated Jena, June 20th, 1908, addressed, "To the Parties," beginning

- 3658 with the words, "We give you copy of letter dated June 13th, received from our agent," and ending with the words, "the Agency of the N. Y. Continental and Russian East Asiatic Line."

Marked Petitioner's Exhibit No. 1,036.

Also circular letter G. No. 159, dated Jena, June 20th, 1908, addressed, "To the Parties," beginning with the words, "The White Star Line inform me that they advanced the eastbound II class rate to Cherbourg," and ending with the words, "second class rate to Cherbourg to the same figure," signed, "H. Peters."

- 3659 Marked Petitioner's Exhibit No. 1,037.

Also circular letter G. No. 160, dated Jena, June 20th, 1908, addressed, "To the Parties," beginning with the words, "The following replies have been received upon Lloyd's proposal *re* to compensation," and ending with the words, "The other parties have not yet given their views."

Marked Petitioner's Exhibit No. 1,038.

Also attached to G. No. 160, reply of White Star Line.

Marked Petitioner's Exhibit No. 1,039.

- 3660 Also circular letter G. No. 162, dated Jena, June 22nd, 1908, addressed, "To the Parties," beginning with the words, "I am informed that S. S. 'Volturno,' which sailed June 6th," and ending with the words, "at Hoek van Holland June 18th, and proceeded the same day to Hamburg."

Marked Petitioner's Exhibit No. 1,040.

Also circular letter G. No. 166, dated Jena, June 23rd, 1908, addressed, "To the Parties," beginning with the words, "Referring to the Minutes of Conference Meeting held in London on the 25th," and

ending with the words, "The Cie. Gle. Transatlantique will please inform me of their reply to the above suggestion."

3661

Marked Petitioner's Exhibit No. 1,041.

Also circular letter G. No. 169, dated Jena, June 24th, 1908, addressed, "To the Parties," beginning with the words, "Our New York office writes us that according to information," and ending with the words, "they are not able to state where this rumor originates from."

Marked Petitioner's Exhibit No. 1,042.

Also circular letter G. No. 170, dated Jena, June 24th, 1908, addressed, "To the Parties," beginning with the words, "S. S. Jelunga which left New York instead of the 'Avoca' on the 20th inst.," and ending with the words, "the Jelunga had obtained 740 steer-agers," signed, "H. Peters."

3662

Marked Petitioner's Exhibit No. 1,043.

Also circular letter G. No. 171, dated Jena, June 24th, 1908, addressed, "To the Parties," beginning with the words, "The Holland-America Line has been informed by their New York office," and ending with the words, "The special reduced third class outward rate for the S. S. 'Noordam' has been fixed at \$22."

Marked Petitioner's Exhibit No. 1,044.

3663

Also circular letter G. No. 172, dated Jena, June 25th, 1908, addressed, "To the Parties," beginning with the words, "The Austro-Americana have received from their Newyork representative the following cut," and ending with the words, "using Venice as the port of arrival and departure."

Marked Petitioner's Exhibit No. 1,045.

Also circular letter G. No. 174, dated Jena, June 26th, 1908, addressed, "To the Parties," beginning

- 3664 with the words, "From the Holland-America Line I received the following telegram," and ending with the words, "from New York with 40 first, 60 second, 1140 steerage, including 250 improved steerage."

Marked Petitioner's Exhibit No. 1,046.

Also circular letter dated Jena, June 27th, 1908, beginning with the words, "The Shipping Gazette in their edition of June 25th publish the following notes from their Newyork correspondent, dated Newyork, June 13th," and ending with the words, "He further declares it likely that a test case will be filed in the United States Court."

- 3665 Marked Petitioner's Exhibit No. 1,047.

Also circular G. No. 177, dated Jena, June 29th, 1908, addressed, "To the Parties," beginning with the words, "The Red Star Line write (translation): 'Our Newyork office write: S. S. Vaderland sailed Saturday (June 13th) with 390 Third class,'" and ending with the words, "As matter now stands the measure is hardly of any value," signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,048.

- 3666 Also circular letter G. No. 179, dated Jena, June 30th, 1908, addressed, "To the Parties," beginning with the words, "With reference to G. No. 117, the Hamburg-American Line inform me that as yet only 2 lines have paid the amounts due," and ending with the words, "The question of the rate of exchange for such bills I have noted for the next meeting."

Marked Petitioner's Exhibit No. 1,049.

Also circular letter G. No. 182, dated Jena, June 1st, 1908, addressed, "To the Parties," beginning with the words, "It has been overlooked to inform you of the existence of an agreement which has been in force for a number of years," and ending with the words, "We shall try to have our agreement with the Govern-

ment changed so as to conform to the cabin agreement." 3667

Marked Petitioner's Exhibit No. 1,050.

Also circular letter G. No. 185, dated Jena, July 2nd, 1908, addressed, "To the Parties," beginning with the words, "S. S. 'Cherson' of the Russian Volunteer Fleet which sailed from New York June 17th," and ending with the words, "she landed 750 and proceeded for Libau June 30th."

Marked Petitioner's Exhibit No. 1,051.

Also circular letter G. No. 186, dated July 3rd, 1908, addressed, "To the Parties," beginning with the words, "From G. No. 165 the Parties know that the Italian Lines wished that the Prince Line be not invited," and ending with the words, "Agree Sandford being invited attend meeting July twentieth," signed, "H. Peters." 3668

Marked Petitioner's Exhibit No. 1,052.

Also circular letter G. No. 187, dated Jena, July 3rd, 1908, addressed, "To the Parties," beginning with the words, "Yesterday the Holland-American Line wired that since the last westbound sailing of the Newyork & Continental Line on May 30th," and ending with the words, "May be they were booked in London by somebody who is under no control." 3669

Marked Petitioner's Exhibit No. 1,053.

Also circular letter G. No. 188, dated Jena, July 3rd, 1908, addressed, "To the Parties," beginning with the words "Lloyd wanting to know which steamers are appointed for July to fight outsiders," and ending with the words, "number of passengers at regular rates for the other steamers," signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,054.

- 3670** Also a circular letter G. No. 189, dated Jena, July 4th, 1908, addressed, "To the Parties," reading as follows, "Russian Steamers. 'Estonia' of the Russ-asiatic sailed June 29th from Libau via Rotterdam with 625 passengers amongst which were 18 second class passengers."

Marked Petitioner's Exhibit No. 1,055.

Also a circular letter G. No. 192, dated Jena, July 7th, 1908, addressed, "To the Parties," beginning with the words, "The Holland-America Line write," and ending with the words, "it is 1800 steerage."

Marked Petitioner's Exhibit No. 1,056.

- 3671** Also a circular letter G. No. 194, dated Jena, July 10th, 1908, addressed, "To the Parties," beginning with the words, "S. S. 'Russia' of the Russasiatic," and ending with the words, "and proceeded July 4th for New York."

Marked Petitioner's Exhibit No. 1,057.

Also a circular letter G. No. 195, dated Jena, July 10th, 1908, beginning with the words, "On this point I received the following letter from Mr. Ismay," and ending with the words, "as the question of the rate of exchange is agreed upon."

- 3672** Marked Petitioner's Exhibit No. 1,058.

Also a circular letter G. No. 196, dated Jena, July 10th, 1908, beginning with the words, "I am sorry to say," and ending with the words, "give definite answer Monday next."

Marked Petitioner's Exhibit No. 1,059.

Also a circular letter G. No. 197, dated Jena, July 10th, 1908, beginning with the words, "The Holland," and ending with the words, "'Jelunga' to Hamburg," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,060.

3673

Also a circular letter G. No. 198, dated Jena, July 13th, 1908, beginning with the words, "Article 3 of Agreement AA," and ending with the words, "this matter for verbal exchange of views at the meeting."

Marked Petitioner's Exhibit No. 1,061.

Also a circular letter G. No. 199, dated Jena, July 14th, 1908, beginning with the words, "In pursuance of G. No. 196," and ending with the words, "considered as dropped."

Marked Petitioner's Exhibit No. 1062.

Also circular letter G. No. 200, dated, Jena, July 14th, 1908, addressed, "To the Parties," beginning with the words, "I beg to promulgate the," and ending with the words, "Specially desired to do so or not." 3674

Marked Petitioner's Exhibit No. 1063.

Also circular letter G. No. 201, dated Jena, July 16th, 1908, addressed, "To the Parties," beginning with the words, "On Tuesday 14th 9 P. M.," and ending with the words, "For the next time abandoned."

Marked Petitioner's Exhibit No. 1064.

Also circular letter G. No. 202, dated, Jena, July 17th, 1908, addressed "To the Parties," beginning with, "How much or little hope," and ending with the words, "I shall act accordingly." 3675

Marked Petitioner's Exhibit No. 1065.

Also circular letter G. No. 203, dated Jena, July 17th, 1908, addressed, "To the Parties," beginning with the words, "The following cable," and ending with the words, "Excess Arabic."

Marked Petitioner's Exhibit No. 1066.



- 3676** Also circular letter G. No. 204, dated Jena, July 17th, 1908, addressed, "To the Parties," beginning with the words, "S. S. 'Rossia' left," and ending with the words, "Including 30 cabin passengers."

Marked Petitioner's Exhibit No. 1067.

Also circular letter G. No. 205, dated, Jena, July 18th, 1908, addressed, "To the Parties," beginning with the words, "In a Hamburg paper of the 16th inst., and ending with the words, "If it should be contemplated."

Marked Petitioner's Exhibit No. 1068.

- 3677** Also circular letter G. No. 206, dated Jena, July 18th, 1908, addressed, "To the Parties," beginning with the words, "Continental eastbound Passengers by Italian Lines. The following," and ending with the words, "do so still now," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1069.

Also circular letter G. No. 207, dated, Jena, July 20th, 1908, addressed, "To the Parties," beginning with the words, "S. S. 'Rossia,' which," and ending with the words, "And proceeded July 18th."

Marked Petitioner's Exhibit No. 1070.

- 3678** Also circular letter G. No. 208, dated Jena, July 20th, 1908, addressed, "To the Parties," beginning with the words, "The Cie. Gen." and ending with the words, "Same as in England," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1071.

Also circular letter G. No. 209, dated Jena, July 21st, 1908, addressed, "To the Parties," and beginning with the words, "Will the Lines," and ending with the words, "Has been appointed as fighting steamer," and signed, "H. Peters."

## Marked Petitioner's Exhibit No. 1072.

3679

Also circular letter G. No. 211, dated, Jena, July 22nd, 1908, addressed, "To the Parties," and beginning with the words, "On July 18th, I received," and ending with the words, "Attended to by all Parties," and signed, "H. Peters."

## Marked Petitioner's Exhibit No. 1073.

Also circular letter G. No. 212, dated, Jena, July 24th, 1908, addressed, "To the Parties," and beginning with the words, "S. S. Estonia," of the Russ-asiatic," and ending with the words, "Got 1298."

## Marked Petitioner's Exhibit No. 1074.

3680

Also circular letter G. No. 214, dated, Jena, July 25th, 1908, addressed, "To the Parties," beginning with the words, "In Hamburg there are reports," and ending with the words, "only for about one year," and signed, "H. Peters."

## Marked Petitioner's Exhibit No. 1075.

Also circular letter G. No. 215, dated, Jena, July 25th, 1908, addressed, "To the Parties," beginning with the words, "I beg to refer," and ending with the words, "New York and 36 for Halifax."

## Marked Petitioner's Exhibit No. 1076.

3681

Also circular letter G. No. 219, dated Jena, July 21st, 1908, addressed, "To the Parties," beginning with the words, "Referring to G. Nos. 45 & 52," and ending with the words, "to the respective lines."

## Marked Petitioner's Exhibit No. 1077.

Also "Annex" to G. 219, beginning with the words, "Account for 406/1," and ending with the word and figures, "Total, \$5,061.76."

## Marked Petitioner's Exhibit No. 1078.

- 3682** Also "Account," dated Rotterdam, June 29th, 1908, beginning with the words, "regarding 1320 adults," and ending with the words, "Holland-Amerika Linie."

Marked Petitioner's Exhibit No. 1079.

Also an "Annex to G. No. 219," beginning, "Account regarding 1672 adults," and ending with the words and figures, "220 childr. (1777 x \$8) \$14216."

Marked Petitioner's Exhibit No. 1080.

Also an "Annex to G. No. 219," beginning, "Account regarding 930 adults," and ending with the words and figures, "132 childr. (991 x \$8.00) \$7928."

**3683**

Marked Petitioner's Exhibit No. 1081.

Also an "Annex to G. No. 219," beginning, "White Star Line Account for," and ending with the words, "20th June, 1908, for Ismay, Imrie & Co."

Marked Petitioner's Exhibit No. 1082.

Also circular letter G. No. 220, dated Jena, July 31st, 1908, addressed "To the Parties," beginning with the words, "'Jelunga' sail for New York," and ending with the words, "is 'Barbossa' August 6th," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1083.

**3684**

Also circular letter G. No. 221, dated, Jena, August 1st, 1908, addressed, "To the Parties," beginning with the words, "The Parties know," and ending with the words, "I beg to refer to the annex," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1084.

Also a translation G. No. 221, beginning with the words, "Paris Meeting. The parties know that," and ending with the words, "Refer to the annex."

## Marked Petitioner's Exhibit No. 1085.

3685

Also a circular letter G. No. 223, dated Jena, August 6th, 1908, addressed, "To the Parties," beginning with the words, "SS. 'Korea' of the Russian" and ending with the words, "steeragers were disembarked."

## Marked Petitioner's Exhibit No. 1086.

Also a circular letter, G. No. 226, dated, Jena, August 10th, 1908, addressed, "To the Parties," beginning with the words, "G. No. 223. The Russia of," and ending with the words, "without calling at Rotterdam."

## Marked Petitioner's Exhibit No. 1087.

3686

Also a circular letter G. No. 225, dated Jena, August 7th, 1908, addressed, "To the Parties," beginning with the words, "According to a cable," and ending with the words, "1420 passengers," and signed, "H. Peters."

## Marked Petitioner's Exhibit No. 1088.

Also a circular letter, G. No. 229, dated, Jena, August 13th, 1908, addressed, "To the Parties," beginning with the words, "Today I send the Monthly Statements for July," and ending with the words, "have been made or received."

## Marked Petitioner's Exhibit No. 1089.

3687

Also a circular letter G. No. 231, dated, Jena, August 14th, 1908, addressed, "To the Parties," beginning with the words, "SS. 'Estonia' sailed," and ending with the words, "Steamer is 'Finland.'"

## Marked Petitioner's Exhibit No. 1090.

Also a circular letter G. No. 233, dated, Jena, August 15th, 1908, addressed, "To the Parties," reading, "Opposition steamer against 'Volturno' August 22nd, is 'Zeeland.'"

3688

## Marked Petitioner's Exhibit No. 1091.

Also a circular letter, G. No. 234, dated, Jena, August 18th, 1908, addressed, "To the Parties," beginning with the words, "SS. 'Korea' sailed," and ending with the words, "By SS. 'California.'"

## Marked Petitioner's Exhibit No. 1092.

Also a circular letter G. No. 235, dated Jena, August 19th, 1908, addressed, "To the Parties," beginning with the words, "S. S. 'Estonia,'" and ending with the words, "and 20 cabin passengers."

## Marked Petitioner's Exhibit No. 1093.

3689

Also a circular letter G. No. 236, dated, Jena, August 21st, 1908, addressed, "To the Parties" beginning with the words, "I received the following letter," and ending with the words, "sur nos paquebots rapides."

## Marked Petitioner's Exhibit No. 1094.

Also a translation of G. No. 236, beginning with the words, "Italian Rates of the French Line. I received," and ending with the words, "We quote for our express steamers."

## Marked Petitioner's Exhibit No. 1,095.

3690

Also circular letter G. No. 237, dated, Jena, August 21st, 1908, addressed, "To the Parties, East-bound Prepaids," beginning with the words, "The Red Star Line have," and ending with the words, "this matter put on the Agenda of the London Meeting."

## Marked Petitioner's Exhibit No. 1,096.

Also circular letter, G. No. 238, dated, Jena, August 21st, 1908, addressed, "To the Parties, Russian steamers (G. No. 225)," beginning with the words, "SS. 'Rossia' arrived," and ending with the words, "Proceeded August 19th to Libau."

## Marked Petitioner's Exhibit No. 1,097.

3691

Also circular letter G. No. 239, dated, Jena, August 22nd, 1908, addressed, "To the Parties," beginning with the words, "Enclosed I beg to send the Agenda," and ending with the words, "wish to postpone the discussion of these subjects," and signed.

## Marked Petitioner's Exhibit No. 1,098.

Also circular letter, G. No. 239 (Agenda), dated Jena, August 22nd, 1908, beginning with the words, "Agenda of the Meeting in London, Savoy Hotel, August 25th, 1908, 10 A. M.," and ending with the words, "to terms with Italian Lines."

## Marked Petitioner's Exhibit No. 1,099.

3692

Also circular letter G. No. 240, dated, Jena, August 22nd, 1908, addressed, "To the Parties," beginning with the words, "The 'Strasser's Statistic' up till now was only," and ending with the words, "If the Lines will inform me how many copies they want," and signed.

## Marked Petitioner's Exhibit No. 1,100.

Also circular letter G. No. 242, dated, Jena, August 25th, 1908, addressed, "To the Parties," beginning with the words "SS. 'Vultorno' sailed August 22nd," and ending with the words "same date with 1350 steeragers."

3693

## Marked Petitioner's Exhibit No. 1,101.

Also circular letter G. No. 244, dated, Jena, August 27th, 1908, addressed, "To the Parties," beginning with the words, "SS. 'Rossia' sailed," and ending with the words "to New York."

## Marked Petitioner's Exhibit No. 1,102.

Also circular letter, "G. No. 245," dated Jena, August 29th, 1908, addressed, "To the Parties," beginning with the words, "I herewith beg to enclose," and

- 3694 ending with the words, "competition Eastasiatic rate \$28."

Marked Petitioner's Exhibit 1,103.

Also circular letter, G. No. 248, dated, Jena, September 3rd, 1908, addressed, "To the Parties," beginning with the words "SS. 'Rossia' arrived August 27th, at Rotterdam," and ending with the words, "In view of the Agreement with the Russasiatic."

Marked Petitioner's Exhibit No. 1,104.

- 3695 Also circular letter, G. No. 249, dated, Jena, September 4th, 1908, addressed, "To the Parties," beginning with the words, "I informed the parties that the bill for compensation moneys," and ending with the word and figures, "Total \$3,409.76."

Marked Petitioner's Exhibit No. 1,105.

Also letter, dated, New York, August 18-08, addressed, "Red Star Line, Office of the Manager, Antwerp," beginning with the words, "Opposition Steamers. Referring," and ending with the words, "be compensated at \$4 each, amounting to \$4,154," and signed, "Red Star Line."

Marked Petitioner's Exhibit No. 1,106.

- 3696 Also circular letter G., No. 250, dated, Jena, September 7th, 1908, addressed, "To the Parties," beginning with the words, "S. S. Volturmo, of the New York," and ending with the words, "were forwarded on a river boat to Rotterdam."

Marked Petitioner's Exhibit No. 1,107.

Also circular letter, G. No. 251, dated Jena, September 10th, 1908, addressed, "To the Parties," beginning with the word, "In compliance with the wishes uttered," and ending with the words, "The minutes and by-laws in the same way," and signed.

Marked Petitioner's Exhibit No. 1,108.

Also circular letter G. No. 254, dated Jena, September 12th, 1908, addressed "To the Parties," beginning with the words, "For records sake and in connection," and ending with the words, "resolved in London are considered indispensable by us." 3697

Marked Petitioner's Exhibit No. 1,109.

Also circular letter G. No. 255, dated, Jena, September 15th, 1908, addressed, "To the Parties," beginning with the words, "I have to inform the parties," and ending with the words, "The percentage of the average of the carryings is 6.87%, and signed "H. Peters."

Marked Petitioner's Exhibit No. 1,110. 3698

Also circular letter G. No. 259, dated Jena, September 22nd, 1908, addressed, "To the Parties," beginning with the words, "The Russian Eastasiatic Co., being no longer," and ending with the words, "modified by the participation of transat and Austro.," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,111.

Also circular letter G. No. 260, dated, Jena, September 23rd, 1908, addressed, "To the Parties," beginning with the words, "By request of the Lloyd," and ending with the words, "accompanied by a Memorandum," and signed "H. Peters." 3699

Marked Petitioner's Exhibit No. 1,112.

Also "Commentary" to the Provisional Agreement regarding steorage business between Italian and North American Ports as discussed at Berlin, September 16th, 1908," beginning with the words, "The discussions Director General Ballin," and ending with the words, "the whole Agreement should not become public, but kept secret for the reasons that according to Italian law Pool Agreements are forbidden," and signed "Wiegand."



3700

## Marked Petitioner's Exhibit No. 1,113.

Also "Contract," beginning with the words, "Between the Undersigned, Director-General A. Ballin and Director-General Dr. H. Wiegand, on behalf of the Continental and British Lines, and," and ending with the words, "Berlin, September 16, 1908. (signed) Wiegand for Mr. A. Ballin, (signed) Ecker, (signed), Ad. Storm, (signed) Crespi, (signed) Paratore."

## Marked Petitioner's Exhibit No. 1,114.

3701

Also "Agenda," dated, Jena, 25th September, 1908, beginning with the words, "Cunard Lines' Fiume service," and ending with the words, "Proposed Agreements on Mediterranean business."

## Marked Petitioner's Exhibit No. 1,115.

Also circular letter, G. No. 260, dated, Jena, September 26th, 1908, addressed, "To the Parties," beginning with the words, "Lloyd wired me as follows: 'Information that,'" and ending with the words, "I informed the Lines hereof at once by wire."

## Marked Petitioner's Exhibit No. 1,116.

3702

Also circular letter, G. No. 261, dated, Jena, September 29th, 1908, addressed, "To the Parties," beginning with the words, "With reference to the question of a compensation for the," and ending with the words, "a demander une compensation."

## Marked Petitioner's Exhibit No. 1,117.

Also circular, G. No. 261, beginning with the words "Russian East Asiatic's Prepaids from Rotterdam (G. No. 259). With reference to the question," and ending with the words, "Without claiming a compensation."

## Marked Petitioner's Exhibit No. 1,118.

Also circular letter, G. No. 262, dated, Jena, September 29th, 1908, addressed, "To the Parties," be-

ginning with the words, "There seems to be a difference of opinion," and ending with the words, "I therefore add this question to the Agenda of the next meeting." 3703

Marked Petitioner's Exhibit No. 1,119.

Also circular letter, G. No. 263, dated, Jena, September 30th, 1908, addressed, "To the Parties," beginning with the words, "Hapag on 26th inst. had received from," and ending with the words, "advices at eleven dollars for Manual Calvo., October 6th," and signed, "H. Peters."

Marked Petitioner's Exhibit No. 1,120.

Also circular letter, G. No. 265, dated, Jena, September 30th, 1908, addressed, "To the Parties," beginning with the words, "I received today the following letter from Dr. Wiegand," and ending with the words, "Will the British Lines oblige me by their reply to the above." 3704

Marked Petitioner's Exhibit No. 1,121.

Also circular letter, G. No. 266, dated, Jena, September 30th, 1908, addressed, "To the Parties," beginning with the words, "Hapag received the following cable from New York," and ending with the words, "435 Italian and 371 Greek steerages."

Marked Petitioner's Exhibit No. 1,122.

Also circular letter, G. No. 267, dated, Jena, October 1st, 1908, addressed, "To the Parties," beginning with the words, "I received the annexed bills for passengers," and ending with the words, "This statement is like the compensation accounts in G. No. 249, subject to the participation of the Austro-American Line after their eastbound percentages has been fixed," and signed, "H. Peters." 3705

Marked Petitioner's Exhibit No. 1,123.

- 3706** Also "Annex 1" to G. No. 267.1/10.08, beginning with the words, "To compensation due S. S. 'Baltic' April 16th," and ending with the words, "For Ismay, Imrie & Co."

Marked Petitioner's Exhibit No. 1,124.

Also "Annex 2" to G. No. 267.1/10.08, beginning with, "Holland-America Line, Account," and ending with the words and figures, "i. e. for 9 adults, 1 child 9 1/2 x 7, \$66.50."

Marked Petitioner's Exhibit No. 1,125.

- 3707** Also "Annex 3" to G. No. 267.1/10.08, beginning with, "Account regarding 1,442 adults, 186," and ending with the figures, "\$13,254.50."

Marked Petitioner's Exhibit No. 1,126.

Also "Annex 4" to G. No. 267.1/10.08, beginning with the words, "Account regarding 948," and ending with the figures, "\$6,769."

Marked Petitioner's Exhibit No. 1,127.

- 3708** Also circular letter G. No. 270, dated, Jena, October 5th, 1908, addressed, "To the Parties," beginning with the words, "Lloyd writes: 'As the Lines know, there exist several,'" and ending with the words, "I have put this point on the agenda of the forthcoming meeting."

Marked Petitioner's Exhibit No. 1,128.

Also circular G. No. 272, dated, Jena, October 5th, 1908, addressed, "To the Parties," beginning with the words, "Lloyd writes, 'Das Kgl.,'" and ending with the words, "Will the Lines please cause the needful."

Marked Petitioner's Exhibit No. 1,129.

Also a translation of circular, G. No. 272, beginning with the words, "Lloyd write:— 'The Royal Saxon Minister of the Interior writes us under date of

30th ultimo," and ending with the words, "Will the Lines please cause the needful." 3709

Marked Petitioner's Exhibit No. 1,130.

Also a circular letter, G. No. 271, dated, Jena, October 5th, 1908, addressed, "To the Parties," beginning with the words, "The Parties will please note," and ending with the words, "is not 'Irene' as printed, but 'Ivernia.'"

Marked Petitioner's Exhibit No. 1,131.

Also a circular G. No. 273, dated Jena, October 5th, 1908, addressed, "To the Parties," beginning with the words, "The Red Star Line send me a letter," and ending with the words, "repeating the firms previously disqualified and send me copies of the circulars," and signed, "H. Peters." 3710

Marked Petitioner's Exhibit No. 1,132.

Also a circular, G. No. 274, dated, Jena, October 5th, 1908, addressed, "To the Parties," beginning with the words, "The Red Star Line send me a letter," and ending with the words, "they can not take these passengers," and signed "H. Peters."

Marked Petitioner's Exhibit No. 1,133.

Also a circular letter, G. No. 275, dated, Jena, October 7th, 1908, addressed, "To the Parties," beginning with the words, "The Parties have been informed of the following," and ending with the words, "to consider the question of commissions and I shall put it on the Agenda," and signed, "H. Peters." 3711

Marked Petitioner's Exhibit No. 1,134.

Also a circular letter, G. No. 276, dated, Jena, October 9th, 1908, addressed, "To the Parties," beginning with the words, "I beg to send today the Monthly Statements for the," and ending with the words, "The Parties will please inform me when the payments have been made or received."

**3712**                      Marked Petitioner's Exhibit No. 1,135.

Also a circular letter G. No. 277, dated, Jena, October 10th, 1908, addressed, "To the Parties," beginning with the words, "According to Monthly Adjustment-Statements," and ending with the words, "and request the Parties to inform me when the amounts have been received."

## Marked Petitioner's Exhibit No. 1,136.

Also a circular letter, G. No. 277, dated, Jena, October 10th, 1908, addressed, "To the Parties," beginning with the words, "According to Monthly Adjustment-Statements," and ending with the words, "inform me when the amounts have been received," and signed, "H. Peters."

**3713**

## Marked Petitioner's Exhibit No. 1,137.

Also a "Memo.," dated, "29.10.08," beginning with the words, "It is observed," and ending with the words, "were due on the 27th instant."

## Marked Petitioner's Exhibit No. 1,138.

Also a circular letter, G. No. 278, dated, Jena, October 10th, 1908, addressed "To the Parties," beginning with the words, "The Parties have been informed," and ending with the words, "At the Grand Hotel, 10 A. M."

**3714**

## Marked Petitioner's Exhibit No. 1,139.

Also a circular letter, G. No. 279, dated, Jena, October 12th, 1908, addressed, "To the Parties," beginning with the words, "The Parties are informed that the," and ending with the words, "which shall be done," and signed "H. Peters."

## Marked Petitioner's Exhibit No. 1,140.

Also a circular letter G. No. 280, dated, Jena, October 12th, 1908, addressed "To the Parties," beginning

with the words, "On Saturday 10th inst." and ending with the words, "I did not consider necessary to wire the replies 4 to 6." 3715

Marked Petitioner's Exhibit No. 1,141.

Also a circular letter G. No. 281, dated, Jena, October 13th, 1908, addressed, "To the Parties," beginning with the words, "I have informed the Russ-asiatic that," and ending with the words, "on this subject and shall revert to it," and signed "H. Peters."

Marked Petitioner's Exhibit No. 1,142.

Also a circular letter No. 283, dated, Jena, October 16th, 1908, addressed, "To the Parties," beginning with the words, "The Russian East," and ending with the words, "Libau and headtax," and signed, "H. Peters." 3716

Marked Petitioner's Exhibit No. 1,143.

Also "Agenda" of the Meeting in Paris, Grand Hotel, 21st October, 1908, 10 A. M., dated, Jena, 14th October, 1908, beginning with the words "I—Cunard Line's Fiume service," and ending with the words, "business being so long delayed. (G. No. 279.)"

Marked Petitioner's Exhibit No. 1,144.

Also circular letter G. No. 285, dated Jena, October 27th, 1908, addressed, "To the Parties," beginning with the words, "Enclosed I beg to send copies of," and ending with the words, "I shall send copies to Russian East Asiatic S. S. Co. for signature." 3717

Marked Petitioner's Exhibit No. 1,145.

Also circular G. No. 286, dated Jena, October 28th, 1908, addressed, "To the Parties," beginning with the words, "The following is a copy of the Guarantee which has been," and ending with the words, "is such that."

3718

## Marked Petitioner's Exhibit No. 1,146.

Also circular letter G. No. 288, dated Jena, October 30th, 1908, addressed, "To the Parties," beginning with the words, "I beg to submit the following accounts," and ending with the words, "after their east-bound percentage has been fixed."

## Marked Petitioner's Exhibit No. 1,147.

Also circular letter G. No. 294, dated Jena, November 12th, 1908, addressed, "To the Parties," beginning with the words, "I received today the following," and ending with the words, "should be strictly observed by all concerned in its widest sense."

3719

## Marked Petitioner's Exhibit No. 1,148.

Also circular letter G. No. 299, dated Jena, November 20th, 1908, addressed, "To the Parties," beginning with the words, "Mr. J. Bruce Ismay writes me as follows," and ending with the words, "a copy of which is enclosed," and signed, "H. Peters."

## Marked Petitioner's Exhibit No. 1,149.

3720

Also circular letter, dated Jena, November 20th, 1908, addressed, "To Norddeutscher Lloyd, Hamburg-American Line, White Star Line, Anchor Line, Austro-Americana, Cie. Gle. Transatlantique," beginning with the words, "Mr. Mearns of the Cunard Line wired me," and ending with the words, "let me have their views on the subject."

## Marked Petitioner's Exhibit No. 1,150.

Also circular letter, dated Jena, November 19th, 1908, addressed "To Norddeutscher Lloyd, Hamburg American Line, Cie. Gle. Transatlantique, Austro Americana, White Star Line, Cunard Line," beginning with the words, "The Anchor Line wish me to circulate their following letter," and ending with the words, "and had only 287 steerage."